



Fiscal Council

Joe Negron, Chair
Fred Brummer, Vice Chair

December 06, 2005
9:30 a.m. – 12:00 p.m.
Morris Hall

2ND REVISED

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Fiscal Council

Start Date and Time: Tuesday, December 06, 2005 09:30 am

End Date and Time: Tuesday, December 06, 2005 12:00 pm

Location: Morris Hall (17 HOB)

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 3B CS (IF RECEIVED) -- Medicaid by Benson

HB 47B Appropriation to Compensate Wilton Dedge by Goodlette, Quinones

HB 41B Judges by Goodlette

HB 31B (IF RECEIVED) -- Specialty License Plates by Patterson

HB 15B (IF RECEIVED) -- Ad Valorem Property Tax Payment Discounts by Hasner

HB 1B (IF RECEIVED) -- Slot Machine Gaming by Business Regulation Committee

NOTICE FINALIZED on 12/05/2005 19:20 by SLB



Florida House of Representatives

Fiscal Council

Allan Bense
Speaker

Joe Negron
Chair

AGENDA

December 6, 2005

9:30 a.m. – 12:00 p.m.

Morris Hall

- I. Meeting Call to Order**
- II. Opening Remarks by Chair**
- III. Consideration of the following bill(s):**
 - HB 3B CS (IF RECEIVED) -- Medicaid by Benson**
 - HB 47B Appropriation to Compensate Wilton Dedge by Goodlette, Quinones**
 - HB 41B Judges by Goodlette**
 - HB 31B (IF RECEIVED) -- Specialty License Plates by Patterson**
 - HB 15B (IF RECEIVED) -- Ad Valorem Property Tax Payment Discounts by Hasner**
 - HB 1B (IF RECEIVED) -- Slot Machine Gaming by Business Regulation Committee**
- IV. Closing Remarks and Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 3B CS Medicaid
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	6 Y, 4 N, w/CS	Mitchell	Mitchell
2) Fiscal Council		Speir <i>Speir</i>	Kelly <i>Ch</i>
3) Health & Families Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

In the 2005 Regular Session the Legislature passed CS/CS/SB 838 (Ch. 2005-133, L.O.F.), which establishes s. 409.91211, F.S., to give the Agency for Health Care Administration (AHCA) guidance and authority to seek a federal waiver to reform Medicaid, and specified the agency could not implement the waiver until it received authority from the Legislature. On October 3, 2005, AHCA submitted the waiver to the federal Centers for Medicare and Medicaid Services (CMS) for approval, following a year of negotiation with CMS. On October 19, 2005, the federal Centers for Medicare and Medicaid Services (CMS) approved Florida's Medicaid Reform waiver application with special terms and conditions.

HB 3B with CS amends s. 409.91211, F.S., to give AHCA authority to implement Medicaid reform as required by CS/CS/SB 838, and in accordance with CMS special terms and conditions. It also amends ss. 216.346, 409.911, 409.912, 409.9122, and 641.2261, Florida Statutes and creates ss. 11.72 and 409.91212, Florida Statutes.

The bill provides an appropriation of \$250,000, and an FTE to the Office of Insurance Regulation to carry out an annual review of the risk-adjusted rate methodology.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government. The bill requires outsourcing of the administration of health care service delivery to managed care plans approved by the Agency for Health Care Administration.

B. EFFECT OF PROPOSED CHANGES:

HB 3B with CS amends s. 409.91211, F.S., to give AHCA authority to implement the reform plan as established in the waiver application and federal terms and conditions for the waiver.

The bill:

- Requires Medicaid provider service networks to comply with certain federal solvency requirements, rather than state solvency requirements for HMOs.
- Modifies the name, composition, and mission of the existing Medicaid Disproportionate Share Council.
- Establishes Low Income Pool Council objectives for the distribution of LIP funds. The revised Council will make recommendations to the Legislature regarding the Low Income Pool, which replaces the UPL funding program for safety-net hospitals.
- Allows current capitated, behavior health programs to continue in non-reform counties.
- Facilitates the establishment of PSNs by, removing the requirement that contracts for Provider Service Networks (PSNs) be competitively bid, so hospitals and other provider networks can be established to participate in Medicaid reform.
- Authorizes AHCA to begin implementing the Medicaid managed care pilot program in two sites, Broward and Duval Counties.
- Authorizes AHCA to seek options to make direct payments to state medical school hospitals and physicians.
- Requires PSNs to continue sharing savings with the state as PSNs transition to managed care reform plans.
- Allows the Department of Health's, Children's Medical Services Network, to become a reform plan.
- Establishes detailed measures that require quality assurance, patient satisfaction, and performance standard reporting by managed care reform plans.
- Establishes detailed standards for managed care plan compliance, including patient encounter reporting requirements.
- Establishes detailed requirements to minimize the risk of Medicaid fraud and abuse in all plans operating in the Medicaid managed care pilot program.
- Requires AHCA to assign Medicaid recipients who are currently in a Medicaid managed care plan and who do not make a choice of a plan at the point of eligibility redetermination into the most appropriate reform plan operated by the recipient's current managed care organization.
- Requires AHCA to notify the Legislature before proposing any changes to the terms and conditions of the waiver.
- Requires the Office of Insurance Regulation to advise AHCA and report to the Legislature on the proposed risk-adjusted rate methodology developed for Medicaid reform plans; a four year phase in of the risk-adjusted rates; limits on variation in rates based on risk, with hold harmless on plan payments; and federal approval of risk adjusted rates.

- Requires rule making for risk-adjusted rate-setting and for choice counseling of beneficiaries.
- Establishes a Joint Legislative Committee on Medicaid Reform Implementation for reviewing policy issues related to expansion.
- Establishes detailed requirements for readiness that must be met before expansion into other counties can be considered beginning in year two. At least two plans in the expansion area must meet readiness criteria.
- Mandates the assignment of Medicaid recipients in non-reform counties to a managed care plan when they fail to select a service delivery system.
- Requires AHCA to report to the Legislature by April 1, 2006, on Low Income Pool methodology and other issues related to the special terms and conditions.
- Requires AHCA to submit all CMS required quarterly and annual progress reports to the Legislature.
- Specifies legislative intent that, if any conflict exists between the statutory provisions relating to reform and other Medicaid statutes, the requirements of reform prevail. AHCA must report to the Legislature any conflicts it identifies.
- Provides an appropriation of \$250,000 for the Office of Insurance Regulation to carry out the annual review of the risk-adjusted rate methodology.
- Provides an effective date of upon becoming law, so that AHCA can implement Medicaid Reform.

THE CURRENT SITUATION

Medicaid is the \$15 billion state and federal program that provides health care to more than 2.1 million vulnerable, disabled, and elderly Floridians. According to AHCA, if Florida's Medicaid program continues to grow at its present rate, it would consume more than half of the state's budget by 2015.

Governor Bush's Proposal for Medicaid Reform

In 2004, Governor Bush proposed a major reform of Florida's Medicaid system, and the Agency for Health Care Administration (AHCA) began meeting with the federal Centers for Medicare and Medicaid Services (CMS) to develop concepts for the reform. The reform is referred to as a "waiver" because it seeks federal permission to waive certain federal requirements that govern the regular Medicaid program. The goals of the reform are to establish a new Medicaid system that achieves:

Patient Choice: Participants in reformed Medicaid plans will be able to choose among a variety of benefit packages. With the help of independent choice counselors they will choose the plan that best meets their needs. They will be able to earn credits for approved health-related expenses such as co-pays, over-the-counter medications, or eyeglasses, by meeting approved healthy lifestyle changes such as meeting all well baby checkups, losing weight, and smoking cessation.

Medicaid Marketplace Innovation: Provider groups will be able to design benefit plans that attract participants because of their benefit package, innovative care, convenient networks, and optional services. Competition among managed care plans will reduce fraud in Medicaid. Currently, Medicaid pays claims first and identifies fraud later. Under proposed reforms, capitated health plans have a financial incentive to aggressively guard against fraud.

Better Care: Health plans can customize their benefit design to meet the needs of the target populations in the geographic areas they serve. The state will evaluate the benefits to ensure they are actuarially equivalent to historical fee-for-service benefits and are sufficient to meet the needs of the targeted populations. Rates will be risk adjusted to create incentives for more prevention and identification of chronic illnesses.

Budget Predictability: According to the Agency for Health Care Administration, by moving to a managed and capitated system, the state expects to minimize budget fluctuations driven primarily by the current fee-for-service system and improve predictions of budget growth.

2004-2005 Legislative Action on Medicaid Reform

In the Fall of 2004, both the House and Senate established Select Committees on Medicaid Reform. The Select Committees conducted five public hearings in cities around the state, including Tampa, Ft. Lauderdale, Orlando, Panama City, and Jacksonville. During the public hearings, the Select Committees heard testimony from hundreds of individuals including Medicaid recipients, providers, health maintenance organization (HMO) representatives, advocacy groups, and other interested parties on ways to improve the Medicaid program.

CS/CS/SB 838 Authorization and Requirements to Pursue a Federal Waiver

In 2005, the Legislature passed CS/CS/SB 838, which creates s. 409.91211, F.S., to authorize AHCA to continue developing a plan to pilot the Governor's proposal for a capitated managed care system to replace the current fee-for-service Medicaid system. Requirements of SB 838 include:

Continued federal funding of supplemental payment mechanisms. The law specifies that the authorization was contingent on the attainment of:

- Federal approval to preserve the Upper Payment Limit (UPL) funding for hospitals, including a guarantee of a reasonable growth factor.
- A methodology to allow the use of a portion of these funds to serve as a risk pool for demonstration sites.
- Provisions to preserve the state's ability to use Intergovernmental Transfers (IGT) as state match for federal funds.
- Provisions to protect the Disproportionate Share Hospital (DSH) program.

Components for the reform plan. The law requires AHCA to develop and recommend provisions for implementation of Medicaid reform pilot areas that include:

- Eligibility groups and two geographic areas for the pilot projects. The bill designates one pilot program in Broward County and one pilot program in Duval and surrounding Baker, Clay, and Nassau Counties. It allows the pilot in the Duval County area to be phased in over a 2-year period.
- Requirements that health care plans in Medicaid reform pilot areas include mandatory and optional Medicaid services listed in ss. 409.905 and 409.906, F.S.
- Standards and credentialing requirements for plans, including those related to fiscal solvency, quality of care, and adequacy of access to health care providers.
- Actuarially sound, risk adjusted capitation rates for coverage of Medicaid recipients separated into comprehensive and catastrophic care premium components, and a method to phase in financial risk for approved provider service networks over a 3-year period, with stop-loss requirements.
- A system to help Medicaid recipients select a managed care plan that meets their needs. Requirements for mandatory enrollment in a capitated managed care network and locking a recipient into a health plan for 12 months, unless the recipient can demonstrate cause to justify a disenrollment, and provisions for disenrollment and selection of another plan within a certain timeframe.
- A system to monitor plan performance and the provision of services, and to detect and deter fraud and abuse by health plans, providers, and recipients, including underutilization and inappropriate denial of care.

Approval of an implementation plan. Section 409.91211, F.S, requires AHCA to develop an implementation plan to be submitted to the Legislature for approval before implementation of the reform, or if the Legislature is not in session, for approval by the Legislative Budget Commission.

Evaluation of the pilots. The Legislature also requires an independent evaluation of Medicaid reform for consideration of expansion beyond the pilot areas. The Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Auditor General, will evaluate the two managed care pilot projects during the first 24 months of operation. The evaluation must contain cost savings estimates and quality measures, as well as explanations of any legal or administrative barriers to implementing the pilot projects. The evaluation must be included in a report to the Governor and the Legislature no later than June 30, 2008, for consideration of statewide expansion.

Legislature approval of expansion. No additional counties beyond those specified in s. 409.91211, F.S., may be included in the managed care pilot program without legislative authority.

Federal Approval of the Waiver

The Agency for Health Care Administration (AHCA) published the waiver application for public review on August 31, 2005, and formally submitted the waiver application to the federal government for approval on October 3, 2005.

The federal Centers for Medicaid and Medicare Services (CMS) approved the waiver for reform of Florida Medicaid on October 19, 2005. The waiver covers a 5-year period, from July 1, 2006, through June 30, 2011. Fundamental elements of the reform plan include:

Beneficiary Choice from among benefit packages. With the support of choice counselors, individuals will have the flexibility to choose from a variety of benefit packages and pick the plan that best meets their needs.

Plan Variety. In addition to traditional managed care organizations, new plans will be created from existing provider networks and organizations that wish to participate. Such entities include provider service networks, federally qualified health centers, federally qualified rural health clinics, county health departments, the Division of Children's Medical Services Network within the Department of Health; and other federally, state, or locally funded entities that serve the geographic areas within the pilot program.

Risk-Adjusted Premiums for Medicaid enrollees in managed care plans. The premium will have two components, comprehensive care and catastrophic care, and will be actuarially comparable to all services covered under the current Florida Medicaid program.

A Low-Income Pool (LIP) to be established and maintained by the state to provide direct payment and distributions to safety-net providers in the state for the purpose of providing coverage to the uninsured through provider access systems.

An Employer-Sponsored Insurance (ESI) option to allow individuals to use their premiums to "opt out" of Medicaid and purchase insurance through their workplace.

Enhanced Benefits Accounts to provide incentives to Medicaid Reform enrollees for healthy behaviors that they can use to offset health-care-related costs, such as over-the-counter pharmaceuticals, vitamins, etc.

Federal Terms and Conditions

In approving the waiver, CMS attached special terms and conditions (11-W-00206/4) that set forth in detail the nature, character, and extent of federal involvement in the reform, and Florida's obligations to CMS during the life of the waiver. The terms and conditions address 120 issues in 16 areas of the reform. They require detailed accountability. The terms and conditions require compliance with current Medicaid law, regulation, and policy. They spell out limits on the scope of change in some areas, and provide for broad flexibility in others. The areas addressed by the terms and conditions include:

- General Program and Reporting Requirements.
- Implementation of Florida Medicaid Reform.
- Eligibility, Enrollment, and Choice Counseling.
- Benefit Packages and Medicaid Reform Plans.
- Employer-Sponsored Insurance.
- The Enhanced Benefits Accounts Program.
- The Low Income Pool.
- Evaluation and Monitoring of Budget Neutrality.

The primary condition of the Medicaid waiver is "budget neutrality." A federal rule requires that the costs of Medicaid services provided to recipients under the waiver must not exceed the projected costs for Medicaid services without the waiver. If expenditures exceed the budget neutrality projections, then the state will have to fund these expenditures without federal matching funds.

The terms and conditions require federal approval of amendments to the waiver before Florida can add dual eligible, hospice, and medically needy groups to the reform; and before any program or budget changes can be made to: eligibility, enrollment, benefits, employer-sponsored insurance, implementation, the Low Income Pool, Federal Financial Participation (FFP), sources of the non-Federal share, and budget neutrality.

C. SECTION DIRECTORY:

Section 1. Amends s. 641.2261(2), F.S., to require Medicaid provider service networks to comply with certain federal solvency requirements, rather than state solvency requirements for HMOs.

Section 2. Amends s. 409.911(9), F.S., to modify the name, composition, and mission of the existing Medicaid Disproportionate Share Council. The revised Council will make recommendations to the Legislature regarding the Low Income Pool, which replaces the UPL funding program for safety-net hospitals under the terms and conditions of the federal waiver.

Section 3. Amends s. 409.912, F.S., to allow current capitated, behavior health programs to continue in non-reform counties, and remove the requirement that contracts for Provider Service Networks (PSNs) be competitively bid.

Section 4. Amends s. 409.91211, F.S., to authorize AHCA to begin implementing the Medicaid managed care pilot program in two pilot sites (Broward and Duval Counties per CS/CS/SB 838, 2005). The bill specifies additional requirements related to PSN cost sharing, quality assurance, encounter data, fraud and abuse, and continuity of care; it limits implementation of risk-adjusted rate setting; and it makes technical changes to conform to requirements of the federal waiver.

Section 5. Creates s. 409.91212, F.S., to allow Medicaid reform to expand to other counties after the beginning of year two, if detailed criteria for readiness are met.

Section 6. Amends s. 409.9122, F.S., to remove the requirement of automatic assignment into Medipass of Medicaid recipients in non-reform counties who do not make a choice of plans.

Section 7. Requires AHCA to report to the Legislature by April 1, 2006, on the Low Income Pool methodology and other issues related to the federal terms and conditions requirements of the waiver.

Section 8. Requires AHCA to submit all CMS required quarterly and annual reports to the Legislature.

Section 9. Creates s. 11.72, F.S., to establish a Joint Legislative Committee on Medicaid Reform Implementation to review policy issues related to expansion of the Medicaid managed pilot program and make recommendations regarding the extent readiness criteria are met.

Section 10. Specifies legislative intent that, if any conflict exists between the statutory provisions relating to reform and other Medicaid statutes, the requirements of reform prevail. AHCA must report to the Legislature any conflicts it identifies.

Section 11. Amends s. 216.346, F.S., to allow contracts between state agencies and state colleges and universities to charge a reasonable overhead.

Section 12. Provides an appropriation of \$250,000, for the Office of Insurance Regulation to carry out the annual review of the risk-adjusted rate methodology.

Section 13. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Comments below.

2. Expenditures:

See Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Medicaid reform will change the way Medicaid services are provided to Medicaid recipients. This may have a direct impact on the fees service providers receive.

D. FISCAL COMMENTS:

Administration Costs

The Agency for Health Care Administration has requested \$15 million (\$7.5 million General Revenue) of nonrecurring funds for the administration of Medicaid reform in its Fiscal Year 2006-2007 Legislative Budget Request. The request is for the following funds.

Choice Counseling

General Revenue Fund	\$3,250,000
Administrative Trust Fund	\$3,250,000
Plan Evaluation/Satisfaction Survey	
General Revenue Fund	\$250,000
Administrative Trust Fund	\$250,000
Premium Development	
General Revenue Fund	\$1,000,000
Administrative Trust Fund	\$1,000,000
Enhanced Benefit Accounts	
General Revenue Fund	\$1,500,000
Administrative Trust Fund	\$1,500,000
Management of Employer Sponsored Insurance	
General Revenue Fund	\$1,000,000
Administrative Trust Fund	\$1,000,000
Infrastructure & System Modification	
General Revenue Fund	\$500,000
Administrative Trust Fund	\$500,000

For subsequent years, the agency states that the projects will increase in cost as the capitated managed care pilot program expands into Baker, Clay, and Nassau counties.

Medicaid Reform Benefit Costs

The agency's Florida Medicaid Reform Implementation Plan dated November 28, 2005, compares the costs of Medicaid benefits without Medicaid reform to the costs of Medicaid benefits with Medicaid reform. The comparison is below.

Benefit Costs	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Without reform	\$8,005,381,618	\$9,074,633,163	\$10,317,423,381	\$11,763,265,977	\$13,446,859,984
With reform	\$7,814,617,174	\$8,747,049,308	\$9,823,408,828	\$11,067,673,309	\$12,507,991,943
Difference	\$190,764,444	\$327,583,855	\$494,014,553	\$695,592,668	\$938,868,041

The \$190.7 million in savings shown above for Fiscal Year 2006-2007 is for statewide expenditures. According to the agency, the fiscal impact of moving recipients into Medicaid reform plans in only Duval and Broward counties is indeterminate at this time.

The agency estimates that the phasing in risk-adjusted rates will reduce the amount of the agency's projected cost savings.

Rate Review

This bill authorizes one full-time equivalent position and appropriates \$250,000 from the General Revenue Fund for Fiscal Year 2006-2007 for the annual review of the Medicaid managed care pilot program's risk-adjusted rate setting methodology.

Assignment of Recipients to Managed Care

The bill changes the assignment of undecided enrollees. The agency estimates that this policy change would result in savings of more than \$12.2 million (\$4.2 million General Revenue).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Paragraph (c) on page 40 places a duty on the agency in a subsection that grants powers to the Office of Insurance Regulation.

Subsection (8) on page 40 requires the agency to set rates based upon the "recommendation of the committee" without knowing what committee is being referenced. The language also appears to make the agency's rate setting authority subject to another entity. This may violate the single state agency requirements in federal law (See 42 CFR 431.10).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On December 5, 2005, the Health Care Regulation Committee adopted two amendments sponsored by Representative Garcia. The Committee Substitute differs from the original bill as filed. The Committee Substitute adds language to require: the Office of Insurance Regulation to advise AHCA, not oversee, the proposed risk-adjusted rate system; a four year phase in of the risk-adjusted rates; limits on variation in rates based on risk, with hold harmless on plan payments; federal approval of risk adjusted rates; and rule making for risk-adjusted rate-setting and for choice counseling of beneficiaries.

The bill, as amended, was reported favorably as a committee substitute.

This analysis is drafted to the committee substitute.

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CHAMBER ACTION

1 The Health Care Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to Medicaid; amending s. 641.2261, F.S.;
7 revising the applicability of solvency requirements to
8 include Medicaid provider service networks and updating a
9 reference; amending s. 409.911, F.S.; renaming the
10 Medicaid Disproportionate Share Council; providing for
11 appointment of council members; providing responsibilities
12 of the council; amending s. 409.912, F.S.; providing an
13 exception from certain contract procurement requirements
14 for specified Medicaid managed care pilot programs and
15 Medicaid health maintenance organizations; deleting the
16 competitive procurement requirement for provider service
17 networks; requiring provider service networks to comply
18 with the solvency requirements in s. 641.2261, F.S.;
19 updating a reference; amending s. 409.91211, F.S.;
20 providing for distribution of upper payment limit,
21 hospital disproportionate share program, and low income
22 pool funds; providing legislative intent with respect to
23 distribution of said funds; providing for implementation

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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24 | of the powers, duties, and responsibilities of the Agency
25 | for Health Care Administration with respect to the pilot
26 | program; including the Division of Children's Medical
27 | Services Network within the Department of Health in a list
28 | of state-authorized pilot programs; requiring the agency
29 | to develop a data reporting system; requiring the agency
30 | to implement procedures to minimize fraud and abuse;
31 | providing that certain Medicaid and Supplemental Security
32 | Income recipients are exempt from s. 409.9122, F.S.;
33 | authorizing the agency to assign certain Medicaid
34 | recipients to reform plans; authorizing the agency to
35 | implement the provisions of the waiver approved by Centers
36 | for Medicare and Medicaid Services and requiring the
37 | agency to notify the Legislature prior to seeking federal
38 | approval of modifications to said terms and conditions;
39 | requiring the agency to adopt certain rules for the
40 | managed care pilot program; requiring the Office of
41 | Insurance Regulation to provide advisory recommendations
42 | regarding the agency's rate setting methodology;
43 | authorizing the office to enter into certain contracts;
44 | requiring the agency to solicit input from certain
45 | stakeholders regarding the agency's rate setting
46 | methodology; requiring a report to the Governor and
47 | Legislature; providing for implementation of adjustments
48 | to risk-adjusted capitation rates by agency rule;
49 | providing a schedule for the phasing in of capitation
50 | rates; providing requirements for adjustments to
51 | capitation rates; requiring certification of capitation

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 rates; defining the term "capitated managed care plan";
53 creating s. 409.91212, F.S.; authorizing the agency to
54 expand the Medicaid reform demonstration program;
55 providing readiness criteria; providing for public
56 meetings; requiring notice of intent to expand the
57 demonstration program; requiring the agency to request a
58 hearing by the Joint Legislative Committee on Medicaid
59 Reform Implementation; authorizing the agency to request
60 certain budget transfers; amending s. 409.9122, F.S.;
61 revising provisions relating to assignment of certain
62 Medicaid recipients to managed care plans; requiring the
63 agency to submit reports to the Legislature; specifying
64 content of reports; creating s. 11.72, F.S.; creating the
65 Joint Legislative Committee on Medicaid Reform
66 Implementation; providing for membership, powers, and
67 duties; providing for conflict between specified
68 provisions of ch. 409, F.S., and requiring a report by the
69 agency pertaining thereto; amending s. 216.346, F.S.;
70 revising provisions relating to contracts between state
71 agencies; providing an appropriation; providing an
72 effective date.

73
74 Be It Enacted by the Legislature of the State of Florida:

75
76 Section 1. Section 641.2261, Florida Statutes, is amended
77 to read:

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641.2261 Application of federal solvency requirements to provider-sponsored organizations and Medicaid provider service networks.--

(1) The solvency requirements of ss. 1855 and 1856 of the Balanced Budget Act of 1997 and 42 C.F.R. s. 422.350, subpart H, ~~rules adopted by the Secretary of the United States Department of Health and Human Services~~ apply to a health maintenance organization that is a provider-sponsored organization rather than the solvency requirements of this part. However, if the provider-sponsored organization does not meet the solvency requirements of this part, the organization is limited to the issuance of Medicare+Choice plans to eligible individuals. For the purposes of this section, the terms "Medicare+Choice plans," "provider-sponsored organizations," and "solvency requirements" have the same meaning as defined in the federal act and federal rules and regulations.

(2) The solvency requirements of 42 C.F.R. s. 422.350, subpart H, and the solvency requirements established in the approved federal waiver pursuant to chapter 409 apply to a Medicaid provider service network rather than the solvency requirements of this part.

Section 2. Subsection (9) of section 409.911, Florida Statutes, is amended to read:

409.911 Disproportionate share program.--Subject to specific allocations established within the General Appropriations Act and any limitations established pursuant to chapter 216, the agency shall distribute, pursuant to this section, moneys to hospitals providing a disproportionate share

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of Medicaid or charity care services by making quarterly Medicaid payments as required. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(9) The Agency for Health Care Administration shall create a Medicaid Low Income Pool ~~Disproportionate Share~~ Council. The Low Income Pool Council shall consist of 17 members, including three representatives of statutory teaching hospitals, three representatives of public hospitals, three representatives of nonprofit hospitals, three representatives of for-profit hospitals, two representatives of rural hospitals, two representatives of units of local government which contribute funding, and one representative from the Department of Health. The council shall have the following responsibilities:

(a) Make recommendations on the financing of the upper payment limit program, the hospital disproportionate share program, or the low income pool as implemented by the agency pursuant to federal waiver and on the distribution of funds.

(b) Advise the agency on the development of the low income pool plan required by the Centers for Medicare and Medicaid Services pursuant to the Medicaid reform waiver.

(c) Advise the agency on the distribution of hospital funds used to adjust inpatient hospital rates and rebase rates or otherwise exempt hospitals from reimbursement limits as financed by intergovernmental transfers.

~~(a) The purpose of the council is to study and make recommendations regarding:~~

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~~1. The formula for the regular disproportionate share program and alternative financing options.~~

~~2. Enhanced Medicaid funding through the Special Medicaid Payment program.~~

~~3. The federal status of the upper payment limit funding option and how this option may be used to promote health care initiatives determined by the council to be state health care priorities.~~

~~(b) The council shall include representatives of the Executive Office of the Governor and of the agency, representatives from teaching, public, private nonprofit, private for-profit, and family practice teaching hospitals, and representatives from other groups as needed.~~

~~(d)-(c)~~ The council shall submit its findings and recommendations to the Governor and the Legislature no later than February 1 of each year.

Section 3. Paragraphs (b) and (d) of subsection (4) of section 409.912, Florida Statutes, are amended to read:

409.912 Cost-effective purchasing of health care.--The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion

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162 shall be rendered in a manner approved by the agency. The agency
163 shall maximize the use of prepaid per capita and prepaid
164 aggregate fixed-sum basis services when appropriate and other
165 alternative service delivery and reimbursement methodologies,
166 including competitive bidding pursuant to s. 287.057, designed
167 to facilitate the cost-effective purchase of a case-managed
168 continuum of care. The agency shall also require providers to
169 minimize the exposure of recipients to the need for acute
170 inpatient, custodial, and other institutional care and the
171 inappropriate or unnecessary use of high-cost services. The
172 agency shall contract with a vendor to monitor and evaluate the
173 clinical practice patterns of providers in order to identify
174 trends that are outside the normal practice patterns of a
175 provider's professional peers or the national guidelines of a
176 provider's professional association. The vendor must be able to
177 provide information and counseling to a provider whose practice
178 patterns are outside the norms, in consultation with the agency,
179 to improve patient care and reduce inappropriate utilization.
180 The agency may mandate prior authorization, drug therapy
181 management, or disease management participation for certain
182 populations of Medicaid beneficiaries, certain drug classes, or
183 particular drugs to prevent fraud, abuse, overuse, and possible
184 dangerous drug interactions. The Pharmaceutical and Therapeutics
185 Committee shall make recommendations to the agency on drugs for
186 which prior authorization is required. The agency shall inform
187 the Pharmaceutical and Therapeutics Committee of its decisions
188 regarding drugs subject to prior authorization. The agency is
189 authorized to limit the entities it contracts with or enrolls as

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Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers shall not be entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(4) The agency may contract with:

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver

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218 | provided for by s. 409.905(5). Such an entity must be licensed
219 | under chapter 624, chapter 636, or chapter 641 and must possess
220 | the clinical systems and operational competence to manage risk
221 | and provide comprehensive behavioral health care to Medicaid
222 | recipients. As used in this paragraph, the term "comprehensive
223 | behavioral health care services" means covered mental health and
224 | substance abuse treatment services that are available to
225 | Medicaid recipients. The secretary of the Department of Children
226 | and Family Services shall approve provisions of procurements
227 | related to children in the department's care or custody prior to
228 | enrolling such children in a prepaid behavioral health plan. Any
229 | contract awarded under this paragraph must be competitively
230 | procured. In developing the behavioral health care prepaid plan
231 | procurement document, the agency shall ensure that the
232 | procurement document requires the contractor to develop and
233 | implement a plan to ensure compliance with s. 394.4574 related
234 | to services provided to residents of licensed assisted living
235 | facilities that hold a limited mental health license. Except as
236 | provided in subparagraph 8. and except in counties where the
237 | Medicaid managed care pilot program is authorized under s.
238 | 409.91211, the agency shall seek federal approval to contract
239 | with a single entity meeting these requirements to provide
240 | comprehensive behavioral health care services to all Medicaid
241 | recipients not enrolled in a Medicaid capitated managed care
242 | plan authorized under s. 409.91211 or a Medicaid health
243 | maintenance organization in an AHCA area. In an AHCA area where
244 | the Medicaid managed care pilot program is authorized under s.
245 | 409.91211 in one or more counties, the agency may procure a

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contract with a single entity to serve the remaining counties as
an AHCA area or the remaining counties may be included with an
adjacent AHCA area and shall be subject to this paragraph. Each
entity must offer sufficient choice of providers in its network
to ensure recipient access to care and the opportunity to select
a provider with whom they are satisfied. The network shall
include all public mental health hospitals. To ensure unimpaired
access to behavioral health care services by Medicaid
recipients, all contracts issued pursuant to this paragraph
shall require 80 percent of the capitation paid to the managed
care plan, including health maintenance organizations, to be
expended for the provision of behavioral health care services.
In the event the managed care plan expends less than 80 percent
of the capitation paid pursuant to this paragraph for the
provision of behavioral health care services, the difference
shall be returned to the agency. The agency shall provide the
managed care plan with a certification letter indicating the
amount of capitation paid during each calendar year for the
provision of behavioral health care services pursuant to this
section. The agency may reimburse for substance abuse treatment
services on a fee-for-service basis until the agency finds that
adequate funds are available for capitated, prepaid
arrangements.

1. By January 1, 2001, the agency shall modify the
contracts with the entities providing comprehensive inpatient
and outpatient mental health care services to Medicaid
recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk
Counties, to include substance abuse treatment services.

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274 2. By July 1, 2003, the agency and the Department of
275 Children and Family Services shall execute a written agreement
276 that requires collaboration and joint development of all policy,
277 budgets, procurement documents, contracts, and monitoring plans
278 that have an impact on the state and Medicaid community mental
279 health and targeted case management programs.

280 3. Except as provided in subparagraph 8., by July 1, 2006,
281 the agency and the Department of Children and Family Services
282 shall contract with managed care entities in each AHCA area
283 except area 6 or arrange to provide comprehensive inpatient and
284 outpatient mental health and substance abuse services through
285 capitated prepaid arrangements to all Medicaid recipients who
286 are eligible to participate in such plans under federal law and
287 regulation. In AHCA areas where eligible individuals number less
288 than 150,000, the agency shall contract with a single managed
289 care plan to provide comprehensive behavioral health services to
290 all recipients who are not enrolled in a Medicaid health
291 maintenance organization or a Medicaid capitated managed care
292 plan authorized under s. 409.91211. The agency may contract with
293 more than one comprehensive behavioral health provider to
294 provide care to recipients who are not enrolled in a Medicaid
295 health maintenance organization or a Medicaid capitated managed
296 care plan authorized under s. 409.91211 in AHCA areas where the
297 eligible population exceeds 150,000. In an AHCA area where the
298 Medicaid managed care pilot program is authorized under s.
299 409.91211 in one or more counties, the agency may procure a
300 contract with a single entity to serve the remaining counties as
301 an AHCA area or the remaining counties may be included with an

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adjacent AHCA area and shall be subject to this paragraph.

Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations shall be eligible to compete. Managed care plans contracting with the agency under subsection (3) shall provide and receive payment for the same comprehensive behavioral health benefits as provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts shall be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-effectiveness of the provision of quality mental health services through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. ~~Of the recipients in area 11 who are assigned to MediPass under the provisions of s. 409.9122(2)(k),~~ A minimum of 50,000 ~~of these~~ MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.

4. By October 1, 2003, the agency and the department shall submit a plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides for the full implementation of capitated prepaid behavioral health care in all areas of the state.

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330 a. Implementation shall begin in 2003 in those AHCA areas
331 of the state where the agency is able to establish sufficient
332 capitation rates.

333 b. If the agency determines that the proposed capitation
334 rate in any area is insufficient to provide appropriate
335 services, the agency may adjust the capitation rate to ensure
336 that care will be available. The agency and the department may
337 use existing general revenue to address any additional required
338 match but may not over-obligate existing funds on an annualized
339 basis.

340 c. Subject to any limitations provided for in the General
341 Appropriations Act, the agency, in compliance with appropriate
342 federal authorization, shall develop policies and procedures
343 that allow for certification of local and state funds.

344 5. Children residing in a statewide inpatient psychiatric
345 program, or in a Department of Juvenile Justice or a Department
346 of Children and Family Services residential program approved as
347 a Medicaid behavioral health overlay services provider shall not
348 be included in a behavioral health care prepaid health plan or
349 any other Medicaid managed care plan pursuant to this paragraph.

350 6. In converting to a prepaid system of delivery, the
351 agency shall in its procurement document require an entity
352 providing only comprehensive behavioral health care services to
353 prevent the displacement of indigent care patients by enrollees
354 in the Medicaid prepaid health plan providing behavioral health
355 care services from facilities receiving state funding to provide
356 indigent behavioral health care, to facilities licensed under
357 chapter 395 which do not receive state funding for indigent

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behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.

7. Traditional community mental health providers under contract with the Department of Children and Family Services pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Family Services in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

8. For fiscal year 2004-2005, all Medicaid eligible children, except children in areas 1 and 6, whose cases are open for child welfare services in the HomeSafeNet system, shall be enrolled in MediPass or in Medicaid fee-for-service and all their behavioral health care services including inpatient, outpatient psychiatric, community mental health, and case management shall be reimbursed on a fee-for-service basis. Beginning July 1, 2005, such children, who are open for child welfare services in the HomeSafeNet system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies either through a single agency or formal agreements among several agencies. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children

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and Family Services. The agency is authorized to seek any federal waivers to implement this initiative.

(d) A provider service network which may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. ~~The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care.~~ Medicaid recipients assigned to a provider service network demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. Any contract previously awarded to a provider service network operated by a hospital pursuant to this subsection shall remain in effect for a period of 3 years following the current contract expiration date, regardless of any contractual provisions to the contrary. A provider service network is a network established or organized and operated by a health care provider, or group of affiliated health care providers, which provides a substantial proportion of the health care items and services under a contract directly through the provider or affiliated group of providers and may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the

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financial risk on a prospective basis for the provision of basic health services by the physicians, by other health professionals, or through the institutions. The health care providers must have a controlling interest in the governing body of the provider service network organization.

Section 4. Section 409.91211, Florida Statutes, is amended to read:

409.91211 Medicaid managed care pilot program.--

(1)(a) The agency is authorized to seek experimental, pilot, or demonstration project waivers, pursuant to s. 1115 of the Social Security Act, to create a statewide initiative to provide for a more efficient and effective service delivery system that enhances quality of care and client outcomes in the Florida Medicaid program pursuant to this section. Phase one of the demonstration shall be implemented in two geographic areas. One demonstration site shall include only Broward County. A second demonstration site shall initially include Duval County and shall be expanded to include Baker, Clay, and Nassau Counties within 1 year after the Duval County program becomes operational. This waiver authority is contingent upon federal approval to preserve the upper-payment-limit funding mechanism for hospitals, including a guarantee of a reasonable growth factor, a methodology to allow the use of a portion of these funds to serve as a risk pool for demonstration sites, provisions to preserve the state's ability to use intergovernmental transfers, and provisions to protect the disproportionate share program authorized pursuant to this chapter. Under the upper payment limit program, the hospital

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disproportionate share program, or the low income pool as
implemented by the agency pursuant to federal waiver, the state
matching funds required for the program shall be provided by the
state and by local governmental entities through
intergovernmental transfers. The agency shall distribute funds
from the upper payment limit program, the hospital
disproportionate share program, and the low income pool
according to federal regulations and waivers and the low income
pool methodology approved by the Centers for Medicare and
Medicaid Services. ~~Upon completion of the evaluation conducted~~
~~under s. 3, ch. 2005-133, Laws of Florida, the agency may~~
~~request statewide expansion of the demonstration projects.~~
~~Statewide phase-in to additional counties shall be contingent~~
~~upon review and approval by the Legislature.~~

(b) It is the intent of the Legislature that the low
income pool plan required by the terms and conditions of the
Medicaid reform waiver and submitted to the Centers for Medicare
and Medicaid Services propose the distribution of the program
funds in paragraph (a) based on the following objectives:

1. Ensure a broad and fair distribution of available funds
based on the access provided by Medicaid participating
hospitals, regardless of their ownership status, through their
delivery of inpatient or outpatient care for Medicaid
beneficiaries and uninsured and underinsured individuals.

2. Ensure accessible emergency inpatient and outpatient
care for Medicaid beneficiaries and uninsured and underinsured
individuals.

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469 3. Enhance primary, preventive, and other ambulatory care
470 coverages for uninsured individuals.

471 4. Promote teaching and specialty hospital programs.

472 5. Promote the stability and viability of statutorily
473 defined rural hospitals and hospitals that serve as sole
474 community hospitals.

475 6. Recognize the extent of hospital uncompensated care
476 costs.

477 7. Maintain and enhance essential community hospital care.

478 8. Maintain incentives for local governmental entities to
479 contribute to the cost of uncompensated care.

480 9. Promote measures to avoid preventable hospitalizations.

481 10. Account for hospital efficiency.

482 11. Contribute to a community's overall health system.

483 (2) The Legislature intends for the capitated managed care
484 pilot program to:

485 (a) Provide recipients in Medicaid fee-for-service or the
486 MediPass program a comprehensive and coordinated capitated
487 managed care system for all health care services specified in
488 ss. 409.905 and 409.906.

489 (b) Stabilize Medicaid expenditures under the pilot
490 program compared to Medicaid expenditures in the pilot area for
491 the 3 years before implementation of the pilot program, while
492 ensuring:

493 1. Consumer education and choice.
494 2. Access to medically necessary services.
495 3. Coordination of preventative, acute, and long-term
496 care.

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4. Reductions in unnecessary service utilization.

(c) Provide an opportunity to evaluate the feasibility of statewide implementation of capitated managed care networks as a replacement for the current Medicaid fee-for-service and MediPass systems.

(3) The agency shall have the following powers, duties, and responsibilities with respect to the ~~development of a~~ pilot program:

(a) To implement ~~develop and recommend~~ a system to deliver all mandatory services specified in s. 409.905 and optional services specified in s. 409.906, as approved by the Centers for Medicare and Medicaid Services and the Legislature in the waiver pursuant to this section. Services to recipients under plan benefits shall include emergency services provided under s. 409.9128.

(b) To implement a pilot program that includes ~~recommend~~ Medicaid eligibility categories, ~~from those~~ specified in ss. 409.903 and 409.904 as authorized in an approved federal waiver, ~~which shall be included in the pilot program.~~

(c) To implement ~~determine and recommend how to design~~ the managed care pilot program that maximizes ~~in order to take maximum advantage of~~ all available state and federal funds, including those obtained through intergovernmental transfers, the low income pool, supplemental Medicaid payments ~~upper-payment-level funding systems~~, and the disproportionate share program. Within the parameters allowed by federal statute and rule, the agency is authorized to seek options for making direct payments to hospitals and physicians employed by or under

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525 contract with the state's medical schools for the costs
526 associated with graduate medical education under Medicaid
527 reform.

528 (d) To implement ~~determine and recommend~~ actuarially
529 sound, risk-adjusted capitation rates for Medicaid recipients in
530 the pilot program which ~~can be separated to~~ cover comprehensive
531 care, enhanced services, and catastrophic care.

532 (e) To implement ~~determine and recommend~~ policies and
533 guidelines for phasing in financial risk for approved provider
534 service networks over a 3-year period. These policies and
535 guidelines shall include an option for a provider service
536 network to be paid to pay fee-for-service rates. For any
537 provider service network established in a managed care pilot
538 area, the option to be paid fee-for-service rates shall include
539 a savings-settlement mechanism that is consistent with s.
540 409.912(44) ~~that may include a savings-settlement option for at~~
541 ~~least 2 years.~~ This model shall ~~may~~ be converted to a risk-
542 adjusted capitated rate no later than the beginning of the
543 fourth in the third year of operation and may be converted
544 earlier at the option of the provider service network. Federally
545 qualified health centers may be offered an opportunity to accept
546 or decline a contract to participate in any provider network for
547 prepaid primary care services.

548 (f) To implement ~~determine and recommend~~ ~~provisions~~
549 ~~related to~~ stop-loss requirements and the transfer of excess
550 cost to catastrophic coverage that accommodates the risks
551 associated with the development of the pilot program.

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552 (g) To ~~determine and~~ recommend a process to be used by the
553 Social Services Estimating Conference to determine and validate
554 the rate of growth of the per-member costs of providing Medicaid
555 services under the managed care pilot program.

556 (h) To implement ~~determine and recommend~~ program standards
557 and credentialing requirements for capitated managed care
558 networks to participate in the pilot program, including those
559 related to fiscal solvency, quality of care, and adequacy of
560 access to health care providers. It is the intent of the
561 Legislature that, to the extent possible, any pilot program
562 authorized by the state under this section include any federally
563 qualified health center, any federally qualified rural health
564 clinic, county health department, the Division of Children's
565 Medical Services Network within the Department of Health, or any
566 other federally, state, or locally funded entity that serves the
567 geographic areas within the boundaries of the pilot program that
568 requests to participate. This paragraph does not relieve an
569 entity that qualifies as a capitated managed care network under
570 this section from any other licensure or regulatory requirements
571 contained in state or federal law which would otherwise apply to
572 the entity. The standards and credentialing requirements shall
573 be based upon, but are not limited to:

- 574 1. Compliance with the accreditation requirements as
575 provided in s. 641.512.
- 576 2. Compliance with early and periodic screening,
577 diagnosis, and treatment screening requirements under federal
578 law.
- 579 3. The percentage of voluntary disenrollments.

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- 580 4. Immunization rates.
- 581 5. Standards of the National Committee for Quality
- 582 Assurance and other approved accrediting bodies.
- 583 6. Recommendations of other authoritative bodies.
- 584 7. Specific requirements of the Medicaid program, or
- 585 standards designed to specifically meet the unique needs of
- 586 Medicaid recipients.
- 587 8. Compliance with the health quality improvement system
- 588 as established by the agency, which incorporates standards and
- 589 guidelines developed by the Centers for Medicare and Medicaid
- 590 Services as part of the quality assurance reform initiative.
- 591 9. The network's infrastructure capacity to manage
- 592 financial transactions, recordkeeping, data collection, and
- 593 other administrative functions.
- 594 10. The network's ability to submit any financial,
- 595 programmatic, or patient-encounter data or other information
- 596 required by the agency to determine the actual services provided
- 597 and the cost of administering the plan.
- 598 (i) To implement ~~develop and recommend~~ a mechanism for
- 599 providing information to Medicaid recipients for the purpose of
- 600 selecting a capitated managed care plan. For each plan available
- 601 to a recipient, the agency, at a minimum, shall ensure that the
- 602 recipient is provided with:
 - 603 1. A list and description of the benefits provided.
 - 604 2. Information about cost sharing.
 - 605 3. Plan performance data, if available.
 - 606 4. An explanation of benefit limitations.

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607 5. Contact information, including identification of
608 providers participating in the network, geographic locations,
609 and transportation limitations.

610 6. Any other information the agency determines would
611 facilitate a recipient's understanding of the plan or insurance
612 that would best meet his or her needs.

613 (j) To implement ~~develop and recommend~~ a system to ensure
614 that there is a record of recipient acknowledgment that choice
615 counseling has been provided.

616 (k) To implement ~~develop and recommend~~ a choice counseling
617 system to ensure that the choice counseling process and related
618 material are designed to provide counseling through face-to-face
619 interaction, by telephone, and in writing and through other
620 forms of relevant media. Materials shall be written at the
621 fourth-grade reading level and available in a language other
622 than English when 5 percent of the county speaks a language
623 other than English. Choice counseling shall also use language
624 lines and other services for impaired recipients, such as
625 TTD/TTY.

626 (l) To implement ~~develop and recommend~~ a system that
627 prohibits capitated managed care plans, their representatives,
628 and providers employed by or contracted with the capitated
629 managed care plans from recruiting persons eligible for or
630 enrolled in Medicaid, from providing inducements to Medicaid
631 recipients to select a particular capitated managed care plan,
632 and from prejudicing Medicaid recipients against other capitated
633 managed care plans. The system shall require the entity
634 performing choice counseling to determine if the recipient has

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635 made a choice of a plan or has opted out because of duress,
636 threats, payment to the recipient, or incentives promised to the
637 recipient by a third party. If the choice counseling entity
638 determines that the decision to choose a plan was unlawfully
639 influenced or a plan violated any of the provisions of s.
640 409.912(21), the choice counseling entity shall immediately
641 report the violation to the agency's program integrity section
642 for investigation. Verification of choice counseling by the
643 recipient shall include a stipulation that the recipient
644 acknowledges the provisions of this subsection.

645 (m) To implement ~~develop and recommend~~ a choice counseling
646 system that promotes health literacy and provides information
647 aimed to reduce minority health disparities through outreach
648 activities for Medicaid recipients.

649 (n) To ~~develop and recommend a system for the agency to~~
650 contract with entities to perform choice counseling. The agency
651 may establish standards and performance contracts, including
652 standards requiring the contractor to hire choice counselors who
653 are representative of the state's diverse population and to
654 train choice counselors in working with culturally diverse
655 populations.

656 (o) To implement ~~determine and recommend descriptions of~~
657 the eligibility assignment processes ~~which will be used~~ to
658 facilitate client choice while ensuring pilot programs of
659 adequate enrollment levels. These processes shall ensure that
660 pilot sites have sufficient levels of enrollment to conduct a
661 valid test of the managed care pilot program within a 2-year
662 timeframe.

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663 (p) To implement standards for plan compliance, including,
664 but not limited to, quality assurance and performance
665 improvement standards, peer or professional review standards,
666 grievance policies, and program integrity policies.

667 (q) To develop a data reporting system, seek input from
668 managed care plans to establish patient-encounter reporting
669 requirements, and ensure that the data reported is accurate and
670 complete.

671 (r) To work with managed care plans to establish a uniform
672 system to measure and monitor outcomes of a recipient of
673 Medicaid services which shall use financial, clinical, and other
674 criteria based on pharmacy services, medical services, and other
675 data related to the provision of Medicaid services, including,
676 but not limited to:

677 1. Health Plan Employer Data and Information Set (HEDIS)
678 or HEDIS measures specific to Medicaid.

679 2. Member satisfaction.

680 3. Provider satisfaction.

681 4. Report cards on plan performance and best practices.

682 5. Compliance with the prompt payment of claims
683 requirements provided in ss. 627.613, 641.3155, and 641.513.

684 (s) To require managed care plans that have contracted
685 with the agency to establish a quality assurance system that
686 incorporates the provisions of s. 409.912(27) and any standards,
687 rules, and guidelines developed by the agency.

688 (t) To establish a patient-encounter database to compile
689 data on health care services rendered by health care
690 practitioners that provide services to patients enrolled in

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691 managed care plans in the demonstration sites. Health care
692 practitioners and facilities in the demonstration sites shall
693 submit, and managed care plans participating in the
694 demonstration sites shall receive, claims payment and any other
695 information reasonably related to the patient-encounter database
696 electronically in a standard format as required by the agency.
697 The agency shall establish reasonable deadlines for phasing in
698 the electronic transmittal of full-encounter data. The patient-
699 encounter database shall:

700 1. Collect the following information, if applicable, for
701 each type of patient encounter with a health care practitioner
702 or facility, including:

703 a. The demographic characteristics of the patient.
704 b. The principal, secondary, and tertiary diagnosis.
705 c. The procedure performed.
706 d. The date when and the location where the procedure was
707 performed.
708 e. The amount of the payment for the procedure.
709 f. The health care practitioner's universal identification
710 number.

711 g. If the health care practitioner rendering the service
712 is a dependent practitioner, the modifiers appropriate to
713 indicate that the service was delivered by the dependent
714 practitioner.

715 2. Collect appropriate information relating to
716 prescription drugs for each type of patient encounter.

717 3. Collect appropriate information related to health care
718 costs and utilization from managed care plans participating in

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719 the demonstration sites. To the extent practicable, the agency
720 shall utilize a standardized claim form or electronic transfer
721 system that is used by health care practitioners, facilities,
722 and payors. To develop and recommend a system to monitor the
723 provision of health care services in the pilot program,
724 including utilization and quality of health care services for
725 the purpose of ensuring access to medically necessary services.
726 This system shall include an encounter data information system
727 that collects and reports utilization information. The system
728 shall include a method for verifying data integrity within the
729 database and within the provider's medical records.

730 (u)(g) To implement ~~recommend~~ a grievance resolution
731 process for Medicaid recipients enrolled in a capitated managed
732 care network under the pilot program modeled after the
733 subscriber assistance panel, as created in s. 408.7056. This
734 process shall include a mechanism for an expedited review of no
735 greater than 24 hours after notification of a grievance if the
736 life of a Medicaid recipient is in imminent and emergent
737 jeopardy.

738 (v)(r) To implement ~~recommend~~ a grievance resolution
739 process for health care providers employed by or contracted with
740 a capitated managed care network under the pilot program in
741 order to settle disputes among the provider and the managed care
742 network or the provider and the agency.

743 (w)(s) To implement ~~develop and recommend~~ criteria in an
744 approved federal waiver to designate health care providers as
745 eligible to participate in the pilot program. ~~The agency and~~
746 ~~capitated managed care networks must follow national guidelines~~

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747 ~~for selecting health care providers, whenever available.~~ These
748 criteria must include at a minimum those criteria specified in
749 s. 409.907.

750 ~~(x)(t)~~ To use ~~develop and recommend~~ health care provider
751 agreements for participation in the pilot program.

752 ~~(y)(u)~~ To require that all health care providers under
753 contract with the pilot program be duly licensed in the state,
754 if such licensure is available, and meet other criteria as may
755 be established by the agency. These criteria shall include at a
756 minimum those criteria specified in s. 409.907.

757 ~~(z)(v)~~ To ensure that managed care organizations work
758 collaboratively ~~develop and recommend agreements~~ with other
759 state or local governmental programs or institutions for the
760 coordination of health care to eligible individuals receiving
761 services from such programs or institutions.

762 ~~(aa)(w)~~ To implement procedures to minimize the risk of
763 Medicaid fraud and abuse in all plans operating in the Medicaid
764 managed care pilot program authorized in this section:

765 1. The agency shall ensure that applicable provisions of
766 chapters 409, 414, 626, 641, and 932, relating to Medicaid fraud
767 and abuse, are applied and enforced at the demonstration sites.

768 2. Providers shall have the necessary certification,
769 license, and credentials required by law and federal waiver.

770 3. The agency shall ensure that the plan is in compliance
771 with the provisions of s. 409.912(21) and (22).

772 4. The agency shall require each plan to establish program
773 integrity functions and activities to reduce the incidence of

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774 fraud and abuse. Plans must report instances of fraud and abuse
775 pursuant to chapter 641.

776 5. The plan shall have written administrative and
777 management procedures, including a mandatory compliance plan,
778 that are designed to guard against fraud and abuse. The plan
779 shall designate a compliance officer with sufficient experience
780 in health care.

781 6.a. The agency shall require all managed care plan
782 contractors in the pilot program to report all instances of
783 suspected fraud and abuse. A failure to report instances of
784 suspected fraud and abuse is a violation of law and subject to
785 the penalties provided by law.

786 b. An instance of fraud and abuse in the managed care
787 plan, including, but not limited to, defrauding the state health
788 care benefit program by misrepresentation of fact in reports,
789 claims, certifications, enrollment claims, demographic
790 statistics, and patient-encounter data; misrepresentation of the
791 qualifications of persons rendering health care and ancillary
792 services; bribery and false statements relating to the delivery
793 of health care; unfair and deceptive marketing practices; and
794 managed care false claims actions, is a violation of law and
795 subject to the penalties provided by law.

796 c. The agency shall require all contractors to make all
797 files and relevant billing and claims data accessible to state
798 regulators and investigators and all such data shall be linked
799 into a unified system for seamless reviews and investigations.
800 ~~To develop and recommend a system to oversee the activities of~~
801 ~~pilot program participants, health care providers, capitated~~

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~~managed care networks, and their representatives in order to prevent fraud or abuse, overutilization or duplicative utilization, underutilization or inappropriate denial of services, and neglect of participants and to recover overpayments as appropriate. For the purposes of this paragraph, the terms "abuse" and "fraud" have the meanings as provided in s. 409.913. The agency must refer incidents of suspected fraud, abuse, overutilization and duplicative utilization, and underutilization or inappropriate denial of services to the appropriate regulatory agency.~~

(bb) ~~(x)~~ To develop and provide actuarial and benefit design analyses that indicate the effect on capitation rates and benefits offered in the pilot program over a prospective 5-year period based on the following assumptions:

1. Growth in capitation rates which is limited to the estimated growth rate in general revenue.

2. Growth in capitation rates which is limited to the average growth rate over the last 3 years in per-recipient Medicaid expenditures.

3. Growth in capitation rates which is limited to the growth rate of aggregate Medicaid expenditures between the 2003-2004 fiscal year and the 2004-2005 fiscal year.

(cc) ~~(y)~~ To develop a mechanism to require capitated managed care plans to reimburse qualified emergency service providers, including, but not limited to, ambulance services, in accordance with ss. 409.908 and 409.9128. The pilot program must include a provision for continuing fee-for-service payments for emergency services, including, but not limited to, individuals

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who access ambulance services or emergency departments and who are subsequently determined to be eligible for Medicaid services.

(dd) ~~(z)~~ To ensure ~~develop a system whereby~~ school districts participating in the certified school match program pursuant to ss. 409.908(21) and 1011.70 shall be reimbursed by Medicaid, subject to the limitations of s. 1011.70(1), for a Medicaid-eligible child participating in the services as authorized in s. 1011.70, as provided for in s. 409.9071, regardless of whether the child is enrolled in a capitated managed care network. Capitated managed care networks must make a good faith effort to execute agreements with school districts regarding the coordinated provision of services authorized under s. 1011.70. County health departments delivering school-based services pursuant to ss. 381.0056 and 381.0057 must be reimbursed by Medicaid for the federal share for a Medicaid-eligible child who receives Medicaid-covered services in a school setting, regardless of whether the child is enrolled in a capitated managed care network. Capitated managed care networks must make a good faith effort to execute agreements with county health departments regarding the coordinated provision of services to a Medicaid-eligible child. To ensure continuity of care for Medicaid patients, the agency, the Department of Health, and the Department of Education shall develop procedures for ensuring that a student's capitated managed care network provider receives information relating to services provided in accordance with ss. 381.0056, 381.0057, 409.9071, and 1011.70.

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857 ~~(ee)-(aa)~~ To implement ~~develop and recommend~~ a mechanism
858 whereby Medicaid recipients who are already enrolled in a
859 managed care plan or the MediPass program in the pilot areas
860 shall be offered the opportunity to change to capitated managed
861 care plans on a staggered basis, as defined by the agency. All
862 Medicaid recipients shall have 30 days in which to make a choice
863 of capitated managed care plans. Those Medicaid recipients who
864 do not make a choice shall be assigned to a capitated managed
865 care plan in accordance with paragraph (4)(a) and shall be
866 exempt from s. 409.9122. To facilitate continuity of care for a
867 Medicaid recipient who is also a recipient of Supplemental
868 Security Income (SSI), prior to assigning the SSI recipient to a
869 capitated managed care plan, the agency shall determine whether
870 the SSI recipient has an ongoing relationship with a provider or
871 capitated managed care plan, and, if so, the agency shall assign
872 the SSI recipient to that provider or capitated managed care
873 plan where feasible. Those SSI recipients who do not have such a
874 provider relationship shall be assigned to a capitated managed
875 care plan provider in accordance with paragraph (4)(a) and shall
876 be exempt from s. 409.9122.

877 ~~(ff)-(bb)~~ To develop and recommend a service delivery
878 alternative for children having chronic medical conditions which
879 establishes a medical home project to provide primary care
880 services to this population. The project shall provide
881 community-based primary care services that are integrated with
882 other subspecialties to meet the medical, developmental, and
883 emotional needs for children and their families. This project
884 shall include an evaluation component to determine impacts on

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885 hospitalizations, length of stays, emergency room visits, costs,
886 and access to care, including specialty care and patient and
887 family satisfaction.

888 ~~(gg)~~ ~~(ee)~~ To develop and recommend service delivery
889 mechanisms within capitated managed care plans to provide
890 Medicaid services as specified in ss. 409.905 and 409.906 to
891 persons with developmental disabilities sufficient to meet the
892 medical, developmental, and emotional needs of these persons.

893 ~~(hh)~~ ~~(dd)~~ To develop and recommend service delivery
894 mechanisms within capitated managed care plans to provide
895 Medicaid services as specified in ss. 409.905 and 409.906 to
896 Medicaid-eligible children in foster care. These services must
897 be coordinated with community-based care providers as specified
898 in s. 409.1675, where available, and be sufficient to meet the
899 medical, developmental, and emotional needs of these children.

900 (4)(a) A Medicaid recipient in the pilot area who is not
901 currently enrolled in a capitated managed care plan upon
902 implementation is not eligible for services as specified in ss.
903 409.905 and 409.906, for the amount of time that the recipient
904 does not enroll in a capitated managed care network. If a
905 Medicaid recipient has not enrolled in a capitated managed care
906 plan within 30 days after eligibility, the agency shall assign
907 the Medicaid recipient to a capitated managed care plan based on
908 the assessed needs of the recipient as determined by the agency
909 and shall be exempt from s. 409.9122. When making assignments,
910 the agency shall take into account the following criteria:

911 1. A capitated managed care network has sufficient network
912 capacity to meet the needs of members.

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913 2. The capitated managed care network has previously
914 enrolled the recipient as a member, or one of the capitated
915 managed care network's primary care providers has previously
916 provided health care to the recipient.

917 3. The agency has knowledge that the member has previously
918 expressed a preference for a particular capitated managed care
919 network as indicated by Medicaid fee-for-service claims data,
920 but has failed to make a choice.

921 4. The capitated managed care network's primary care
922 providers are geographically accessible to the recipient's
923 residence.

924 (b) When more than one capitated managed care network
925 provider meets the criteria specified in paragraph (3)(h), the
926 agency shall make recipient assignments consecutively by family
927 unit.

928 (c) If a recipient is currently enrolled with a Medicaid
929 managed care organization that also operates an approved reform
930 plan within a pilot area and the recipient fails to choose a
931 plan during the reform enrollment process or during
932 redetermination of eligibility, the recipient shall be
933 automatically assigned by the agency into the most appropriate
934 reform plan operated by the recipient's current Medicaid managed
935 care organization. If the recipient's current managed care
936 organization does not operate a reform plan in the pilot area
937 that adequately meets the needs of the Medicaid recipient, the
938 agency shall use the auto assignment process as prescribed in
939 the Centers for Medicare and Medicaid Services Special Terms and
940 Conditions number 11-W-00206/4. All agency enrollment and choice

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941 counseling materials shall communicate the provisions of this
942 paragraph to current managed care recipients.

943 ~~(d)(e)~~ The agency may not engage in practices that are
944 designed to favor one capitated managed care plan over another
945 or that are designed to influence Medicaid recipients to enroll
946 in a particular capitated managed care network in order to
947 strengthen its particular fiscal viability.

948 ~~(e)(d)~~ After a recipient has made a selection or has been
949 enrolled in a capitated managed care network, the recipient
950 shall have 90 days in which to voluntarily disenroll and select
951 another capitated managed care network. After 90 days, no
952 further changes may be made except for cause. Cause shall
953 include, but not be limited to, poor quality of care, lack of
954 access to necessary specialty services, an unreasonable delay or
955 denial of service, inordinate or inappropriate changes of
956 primary care providers, service access impairments due to
957 significant changes in the geographic location of services, or
958 fraudulent enrollment. The agency may require a recipient to use
959 the capitated managed care network's grievance process as
960 specified in paragraph (3)(g) prior to the agency's
961 determination of cause, except in cases in which immediate risk
962 of permanent damage to the recipient's health is alleged. The
963 grievance process, when used, must be completed in time to
964 permit the recipient to disenroll no later than the first day of
965 the second month after the month the disenrollment request was
966 made. If the capitated managed care network, as a result of the
967 grievance process, approves an enrollee's request to disenroll,
968 the agency is not required to make a determination in the case.

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969 The agency must make a determination and take final action on a
970 recipient's request so that disenrollment occurs no later than
971 the first day of the second month after the month the request
972 was made. If the agency fails to act within the specified
973 timeframe, the recipient's request to disenroll is deemed to be
974 approved as of the date agency action was required. Recipients
975 who disagree with the agency's finding that cause does not exist
976 for disenrollment shall be advised of their right to pursue a
977 Medicaid fair hearing to dispute the agency's finding.

978 (f)~~(e)~~ The agency shall apply for federal waivers from the
979 Centers for Medicare and Medicaid Services to lock eligible
980 Medicaid recipients into a capitated managed care network for 12
981 months after an open enrollment period. After 12 months of
982 enrollment, a recipient may select another capitated managed
983 care network. However, nothing shall prevent a Medicaid
984 recipient from changing primary care providers within the
985 capitated managed care network during the 12-month period.

986 (g)~~(f)~~ The agency shall apply for federal waivers from the
987 Centers for Medicare and Medicaid Services to allow recipients
988 to purchase health care coverage through an employer-sponsored
989 health insurance plan instead of through a Medicaid-certified
990 plan. This provision shall be known as the opt-out option.

991 1. A recipient who chooses the Medicaid opt-out option
992 shall have an opportunity for a specified period of time, as
993 authorized under a waiver granted by the Centers for Medicare
994 and Medicaid Services, to select and enroll in a Medicaid-
995 certified plan. If the recipient remains in the employer-
996 sponsored plan after the specified period, the recipient shall

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997 remain in the opt-out program for at least 1 year or until the
998 recipient no longer has access to employer-sponsored coverage,
999 until the employer's open enrollment period for a person who
1000 opts out in order to participate in employer-sponsored coverage,
1001 or until the person is no longer eligible for Medicaid,
1002 whichever time period is shorter.

1003 2. Notwithstanding any other provision of this section,
1004 coverage, cost sharing, and any other component of employer-
1005 sponsored health insurance shall be governed by applicable state
1006 and federal laws.

1007 ~~(5) This section does not authorize the agency to~~
1008 ~~implement any provision of s. 1115 of the Social Security Act~~
1009 ~~experimental, pilot, or demonstration project waiver to reform~~
1010 ~~the state Medicaid program in any part of the state other than~~
1011 ~~the two geographic areas specified in this section unless~~
1012 ~~approved by the Legislature.~~

1013 (5) ~~(6)~~ The agency shall develop and submit for approval
1014 applications for waivers of applicable federal laws and
1015 regulations as necessary to implement the managed care pilot
1016 project as defined in this section. The agency shall post all
1017 waiver applications under this section on its Internet website
1018 30 days before submitting the applications to the United States
1019 Centers for Medicare and Medicaid Services. All waiver
1020 applications shall be provided for review and comment to the
1021 appropriate committees of the Senate and House of
1022 Representatives for at least 10 working days prior to
1023 submission. All waivers submitted to and approved by the United
1024 States Centers for Medicare and Medicaid Services under this

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1025 | section must be approved by the Legislature. Federally approved
1026 | waivers must be submitted to the President of the Senate and the
1027 | Speaker of the House of Representatives for referral to the
1028 | appropriate legislative committees. The appropriate committees
1029 | shall recommend whether to approve the implementation of any
1030 | waivers to the Legislature as a whole. The agency shall submit a
1031 | plan containing a recommended timeline for implementation of any
1032 | waivers and budgetary projections of the effect of the pilot
1033 | program under this section on the total Medicaid budget for the
1034 | 2006-2007 through 2009-2010 state fiscal years. This
1035 | implementation plan shall be submitted to the President of the
1036 | Senate and the Speaker of the House of Representatives at the
1037 | same time any waivers are submitted for consideration by the
1038 | Legislature. The agency is authorized to implement the waiver
1039 | and Centers for Medicare and Medicaid Services Special Terms and
1040 | Conditions number 11-W-00206/4. If the agency seeks approval by
1041 | the Federal Government of any modifications to these special
1042 | terms and conditions, the agency shall provide written
1043 | notification of its intent to modify these terms and conditions
1044 | to the President of the Senate and Speaker of the House of
1045 | Representatives at least 15 days prior to submitting the
1046 | modifications to the Federal Government for consideration. The
1047 | notification shall identify all modifications being pursued and
1048 | the reason they are needed. Upon receiving federal approval of
1049 | any modifications to the special terms and conditions, the
1050 | agency shall report to the Legislature describing the federally
1051 | approved modifications to the special terms and conditions
1052 | within 7 days after their approval by the Federal Government.

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1053 ~~(6)(7)~~ Upon review and approval of the applications for
1054 waivers of applicable federal laws and regulations to implement
1055 the managed care pilot program by the Legislature, the agency
1056 may initiate adoption of rules pursuant to ss. 120.536(1) and
1057 120.54 to implement and administer the managed care pilot
1058 program as provided in this section and the agency shall
1059 initiate adoption of rules pursuant to ss. 120.536(1) and 120.54
1060 to develop, implement, and administer the following provisions
1061 of the managed care pilot program:

1062 (a) Risk-adjusted capitation rates pursuant to paragraph
1063 (3)(d).

1064 (b) A mechanism for providing information to Medicaid
1065 recipients pursuant to paragraph (3)(i).

1066 (c) A choice counseling system pursuant to paragraphs
1067 (3)(k), (l), and (m).

1068 (7)(a) The Office of Insurance Regulation shall provide
1069 ongoing guidance to the agency in the implementation of risk-
1070 adjusted rates. Beginning on the effective date of this act, the
1071 Office of Insurance Regulation shall make advisory
1072 recommendations to the agency regarding the following items:

1073 1. The methodology adopted by the agency for risk-adjusted
1074 rates, including any suggestions to improve the predictive value
1075 of the system.

1076 2. Alternative options based on the agency's methodology.

1077 3. The risk-adjusted rate for each Medicaid eligibility
1078 category in the demonstration program.

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1079 4. Administrative and implementation issues regarding the
1080 use of risk-adjusted rates, including, but not limited to, cost,
1081 simplicity, client privacy, data accuracy, and data exchange.

1082 5. The appropriateness of phasing in risk-adjusted rates.

1083 (b) As a part of this process, the Office of Insurance
1084 Regulation shall contract with an independent actuary firm to
1085 assist in the annual review and to provide technical expertise.

1086 (c) As a part of this process, the agency shall solicit
1087 input concerning the agency's rate setting methodology from the
1088 Florida Association of Health Plans, the Florida Hospital
1089 Association, the Florida Medical Association, Medicaid recipient
1090 advocacy groups, and other stakeholder representatives as
1091 necessary to obtain a broad representation of perspectives on
1092 the effects of the agency's adopted rate setting methodology and
1093 recommendations on possible modifications to the methodology.

1094 (d) The Office of Insurance Regulation shall submit a
1095 report of its findings and advisory recommendations to the
1096 Governor, the President of the Senate, and the Speaker of the
1097 House of Representatives prior to the implementation of risk-
1098 adjusted rates on July 1, 2006, and annually thereafter no later
1099 than February 1 of each year for consideration by the
1100 Legislature for inclusion in the General Appropriations Act.

1101 (8) Any provision of law to the contrary notwithstanding,
1102 adjustments to risk-adjusted capitation rates shall be
1103 implemented through rules of the agency, as required by s.
1104 409.9124, based upon the recommendation of the committee.

1105 (9) The capitation rates for plans participating under
1106 this section shall be phased in as follows:

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1107 (a) In the first fiscal year, the capitation rates shall
1108 be weighted so that 75 percent of each capitation rate is based
1109 upon the current methodology and 25 percent is based upon a new
1110 risk-adjusted capitation rate methodology.

1111 (b) In the second fiscal year, the capitation rates shall
1112 be weighted so that 50 percent of each capitation rate is based
1113 upon the current methodology and 50 percent is based upon a new
1114 risk-adjusted rate methodology.

1115 (c) In the third fiscal year, the capitation rates shall
1116 be weighted so that 25 percent of each capitation rate is based
1117 upon the current methodology and 75 percent is based upon a new
1118 risk-adjusted capitation rate methodology.

1119 (d) In the following fiscal year, the risk-adjusted
1120 capitation rate methodology may be fully implemented.

1121 (10) The agency must ensure the following when using a
1122 risk-adjustment rate methodology in whole or part:

1123 (a) The agency's total annual payment shall be based on
1124 each managed care plan's own aggregate risk score, except that
1125 in no case shall the aggregate risk score of any managed care
1126 plan in an area vary by more than 10 percent from the aggregate
1127 weighted mean of all managed care plans providing comprehensive
1128 benefits to TANF and SSI recipients in that area. The agency's
1129 total annual payment to a managed care plan shall be based on
1130 such revised aggregate risk score.

1131 (b) After any adjustments required pursuant to paragraph
1132 (a), the aggregate payments calculated to be made to managed
1133 care plans on behalf of enrollees in any pilot area must be no
1134 less than what the aggregate payments would have been using the

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current rate methodology under s. 409.9124. If the agency determines that such aggregate payments under the risk-adjusted methodology will be lower than the aggregate payments that the plans would have been paid using the current rate methodology under s. 409.9124, supplemental payments shall be made to managed care plans so that the proportion of overall revenue remains the same on an aggregate basis per plan. Such supplemental payments shall be made to bring total payments up to the amount that would have been paid under s. 409.9124.

(11) Prior to the implementation of risk-adjusted capitation rates, the rates shall be certified by an actuary and approved by the Centers for Medicare and Medicaid Services.

(12) For purposes of this section, the term "capitated managed care plan" includes health insurers authorized under chapter 624, exclusive provider organizations authorized under chapter 627, health maintenance organizations authorized under chapter 641, and provider service networks that elect to be paid fee-for-service for up to 3 years as authorized under this section.

Section 5. Section 409.91212, Florida Statutes, is created to read:

409.91212 Medicaid reform demonstration program expansion.--

(1) The agency may expand the Medicaid reform demonstration program pursuant to s. 409.91211 into any county of the state beginning in year two of the demonstration program if readiness criteria are met, the Joint Legislative Committee on Medicaid Reform Implementation has submitted a recommendation

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pursuant to s. 11.72 regarding the extent to which the criteria have been met, and the agency has secured budget approval from the Legislative Budget Commission pursuant to s. 11.90. For the purpose of this section, the term "readiness" means there is evidence that at least two programs in a county meet the following criteria:

(a) Demonstrate knowledge and understanding of managed care under the framework of Medicaid reform.

(b) Demonstrate financial capability to meet solvency standards.

(c) Demonstrate adequate controls and process for financial management.

(d) Demonstrate the capability for clinical management of Medicaid recipients.

(e) Demonstrate the adequacy, capacity, and accessibility of the services network.

(f) Demonstrate the capability to operate a management information system and an encounter data system.

(g) Demonstrate capability to implement quality assurance and utilization management activities.

(h) Demonstrate capability to implement fraud control activities.

(2) The agency shall conduct meetings and public hearings in the targeted expansion county with the public and provider community. The agency shall provide notice regarding public hearings. The agency shall maintain records of the proceedings.

(3) The agency shall provide a 30-day notice of intent to expand the demonstration program with supporting documentation

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1191 that the readiness criteria has been met to the President of the
1192 Senate, the Speaker of the House of Representatives, the
1193 Minority Leader of the Senate, the Minority Leader of the House
1194 of Representatives, and the Office of Program Policy Analysis
1195 and Government Accountability.

1196 (4) The agency shall request a hearing and consideration
1197 by the Joint Legislative Committee on Medicaid Reform
1198 Implementation after the 30-day notice required in subsection
1199 (3) has expired in the form of a letter to the chair of the
1200 committee.

1201 (5) Upon receiving a memorandum from the Joint Legislative
1202 Committee on Medicaid Reform Implementation regarding the extent
1203 to which the expansion criteria pursuant to subsection (1) have
1204 been met, the agency may submit a budget amendment, pursuant to
1205 chapter 216, to request the necessary budget transfers
1206 associated with the expansion of the demonstration program.

1207 Section 6. Subsections (8) through (14) of section
1208 409.9122, Florida Statutes, are renumbered as subsections (7)
1209 through (13), respectively, and paragraphs (e), (f), (g), (h),
1210 (k), and (l) of subsection (2) and present subsection (7) of
1211 that section are amended to read:

1212 409.9122 Mandatory Medicaid managed care enrollment;
1213 programs and procedures.--

1214 (2)

1215 ~~(e) Medicaid recipients who are already enrolled in a~~
1216 ~~managed care plan or MediPass shall be offered the opportunity~~
1217 ~~to change managed care plans or MediPass providers on a~~
1218 ~~staggered basis, as defined by the agency. All Medicaid~~

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1219 recipients shall have 30 days in which to make a choice of
1220 managed care plans or MediPass providers. ~~Those Medicaid~~
1221 ~~recipients who do not make a choice shall be assigned to a~~
1222 ~~managed care plan or MediPass in accordance with paragraph (f).~~
1223 ~~To facilitate continuity of care, for a Medicaid recipient who~~
1224 ~~is also a recipient of Supplemental Security Income (SSI), prior~~
1225 ~~to assigning the SSI recipient to a managed care plan or~~
1226 ~~MediPass, the agency shall determine whether the SSI recipient~~
1227 ~~has an ongoing relationship with a MediPass provider or managed~~
1228 ~~care plan, and if so, the agency shall assign the SSI recipient~~
1229 ~~to that MediPass provider or managed care plan. Those SSI~~
1230 ~~recipients who do not have such a provider relationship shall be~~
1231 ~~assigned to a managed care plan or MediPass provider in~~
1232 ~~accordance with paragraph (f).~~

1233 (f) When a Medicaid recipient does not choose a managed
1234 care plan or MediPass provider, the agency shall assign the
1235 Medicaid recipient to a managed care plan ~~or MediPass provider.~~
1236 Medicaid recipients who are subject to mandatory assignment but
1237 who fail to make a choice shall be assigned to managed care
1238 plans ~~until an enrollment of 40 percent in MediPass and 60~~
1239 ~~percent in managed care plans is achieved. Once this enrollment~~
1240 ~~is achieved, the assignments shall be divided in order to~~
1241 ~~maintain an enrollment in MediPass and managed care plans which~~
1242 ~~is in a 40 percent and 60 percent proportion, respectively.~~
1243 ~~Thereafter, assignment of Medicaid recipients who fail to make a~~
1244 ~~choice shall be based proportionally on the preferences of~~
1245 ~~recipients who have made a choice in the previous period. Such~~
1246 ~~proportions shall be revised at least quarterly to reflect an~~

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1247 ~~update of the preferences of Medicaid recipients. The agency~~
1248 ~~shall disproportionately assign Medicaid-eligible recipients who~~
1249 ~~are required to but have failed to make a choice of managed care~~
1250 ~~plan or MediPass, including children, and who are to be assigned~~
1251 ~~to the MediPass program to children's networks as described in~~
1252 ~~s. 409.912(4)(g), Children's Medical Services Network as defined~~
1253 ~~in s. 391.021, exclusive provider organizations, provider~~
1254 ~~service networks, minority physician networks, and pediatric~~
1255 ~~emergency department diversion programs authorized by this~~
1256 ~~chapter or the General Appropriations Act, in such manner as the~~
1257 ~~agency deems appropriate, until the agency has determined that~~
1258 ~~the networks and programs have sufficient numbers to be~~
1259 ~~economically operated. For purposes of this paragraph, when~~
1260 ~~referring to assignment, the term "managed care plans" includes~~
1261 ~~health maintenance organizations, exclusive provider~~
1262 ~~organizations, provider service networks, minority physician~~
1263 ~~networks, Children's Medical Services Network, and pediatric~~
1264 ~~emergency department diversion programs authorized by this~~
1265 ~~chapter or the General Appropriations Act. When making~~
1266 ~~assignments, the agency shall take into account the following~~
1267 ~~criteria:~~

1268 1. A managed care plan has sufficient network capacity to
1269 meet the need of members.

1270 2. The managed care plan ~~or MediPass~~ has previously
1271 enrolled the recipient as a member, or one of the managed care
1272 plan's primary care providers ~~or MediPass providers~~ has
1273 previously provided health care to the recipient.

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1274 3. The agency has knowledge that the member has previously
1275 expressed a preference for a particular managed care plan or
1276 MediPass provider as indicated by Medicaid fee-for-service
1277 claims data, but has failed to make a choice.

1278 4. The managed care plan is ~~plan's or MediPass primary~~
1279 ~~care providers are~~ geographically accessible to the recipient's
1280 residence.

1281 5. The agency has authority to make mandatory assignments
1282 based on quality of service and performance of managed care
1283 plans.

1284 (g) When more than one managed care plan ~~or MediPass~~
1285 ~~provider~~ meets the criteria specified in paragraph (f), the
1286 agency shall make recipient assignments consecutively by family
1287 unit.

1288 (h) The agency may not engage in practices that are
1289 designed to favor one managed care plan over another ~~or that are~~
1290 ~~designed to influence Medicaid recipients to enroll in MediPass~~
1291 ~~rather than in a managed care plan or to enroll in a managed~~
1292 ~~care plan rather than in MediPass.~~ This subsection does not
1293 prohibit the agency from reporting on the performance of
1294 MediPass or any managed care plan, as measured by performance
1295 criteria developed by the agency.

1296 ~~(k) When a Medicaid recipient does not choose a managed~~
1297 ~~care plan or MediPass provider, the agency shall assign the~~
1298 ~~Medicaid recipient to a managed care plan, except in those~~
1299 ~~counties in which there are fewer than two managed care plans~~
1300 ~~accepting Medicaid enrollees, in which case assignment shall be~~
1301 ~~to a managed care plan or a MediPass provider. Medicaid~~

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1302 ~~recipients in counties with fewer than two managed care plans~~
1303 ~~accepting Medicaid enrollees who are subject to mandatory~~
1304 ~~assignment but who fail to make a choice shall be assigned to~~
1305 ~~managed care plans until an enrollment of 40 percent in MediPass~~
1306 ~~and 60 percent in managed care plans is achieved. Once that~~
1307 ~~enrollment is achieved, the assignments shall be divided in~~
1308 ~~order to maintain an enrollment in MediPass and managed care~~
1309 ~~plans which is in a 40 percent and 60 percent proportion,~~
1310 ~~respectively. In service areas 1 and 6 of the Agency for Health~~
1311 ~~Care Administration where the agency is contracting for the~~
1312 ~~provision of comprehensive behavioral health services through a~~
1313 ~~capitated prepaid arrangement, recipients who fail to make a~~
1314 ~~choice shall be assigned equally to MediPass or a managed care~~
1315 ~~plan. For purposes of this paragraph, when referring to~~
1316 ~~assignment, the term "managed care plans" includes exclusive~~
1317 ~~provider organizations, provider service networks, Children's~~
1318 ~~Medical Services Network, minority physician networks, and~~
1319 ~~pediatric emergency department diversion programs authorized by~~
1320 ~~this chapter or the General Appropriations Act. When making~~
1321 ~~assignments, the agency shall take into account the following~~
1322 ~~criteria:~~

1323 ~~1. A managed care plan has sufficient network capacity to~~
1324 ~~meet the need of members.~~

1325 ~~2. The managed care plan or MediPass has previously~~
1326 ~~enrolled the recipient as a member, or one of the managed care~~
1327 ~~plan's primary care providers or MediPass providers has~~
1328 ~~previously provided health care to the recipient.~~

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3. ~~The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.~~

4. ~~The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.~~

5. ~~The agency has authority to make mandatory assignments based on quality of service and performance of managed care plans.~~

(k) ~~(1)~~ Notwithstanding the provisions of chapter 287, the agency may, at its discretion, renew cost-effective contracts for choice counseling services once or more for such periods as the agency may decide. However, all such renewals may not combine to exceed a total period longer than the term of the original contract.

~~(7) The agency shall investigate the feasibility of developing managed care plan and MediPass options for the following groups of Medicaid recipients:~~

~~(a) Pregnant women and infants.~~

~~(b) Elderly and disabled recipients, especially those who are at risk of nursing home placement.~~

~~(c) Persons with developmental disabilities.~~

~~(d) Qualified Medicare beneficiaries.~~

~~(e) Adults who have chronic, high-cost medical conditions.~~

~~(f) Adults and children who have mental health problems.~~

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1355 ~~(g) Other recipients for whom managed care plans and~~
1356 ~~MediPass offer the opportunity of more cost-effective care and~~
1357 ~~greater access to qualified providers.~~

1358 Section 7. The Agency for Health Care Administration shall
1359 report to the Legislature by April 1, 2006, the specific
1360 preimplementation milestones required by the Centers for
1361 Medicare and Medicaid Services Special Terms and Conditions
1362 related to the low income pool that have been approved by the
1363 Federal Government and the status of any remaining
1364 preimplementation milestones that have not been approved by the
1365 Federal Government.

1366 Section 8. Quarterly progress and annual reports.--The
1367 Agency for Health Care Administration shall submit to the
1368 Governor, the President of the Senate, the Speaker of the House
1369 of Representatives, the Minority Leader of the Senate, the
1370 Minority Leader of the House of Representatives, and the Office
1371 of Program Policy Analysis and Government Accountability the
1372 following reports:

1373 (1) Quarterly progress reports submitted to Centers for
1374 Medicare and Medicaid Services no later than 60 days following
1375 the end of each quarter. These reports shall present the
1376 agency's analysis and the status of various operational areas.
1377 The quarterly progress reports shall include, but are not
1378 limited to, the following:

1379 (a) Documentation of events that occurred during the
1380 quarter or that are anticipated to occur in the near future that
1381 affect health care delivery, including, but not limited to, the
1382 approval of contracts with new managed care plans, the

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procedures for designating coverage areas, the process of phasing in managed care, a description of the populations served and the benefits provided, the number of recipients enrolled, a list of grievances submitted by enrollees, and other operational issues.

(b) Action plans for addressing policy and administrative issues.

(c) Documentation of agency efforts related to the collection and verification of encounter and utilization data.

(d) Enrollment data for each managed care plan according to the following specifications: total number of enrollees, eligibility category, number of enrollees receiving Temporary Assistance for Needy Families or Supplemental Security Income, market share, and percentage change in enrollment. In addition, the agency shall provide a summary of voluntary and mandatory selection rates and disenrollment data. Enrollment data, number of members by month, and expenditures shall be submitted in the format for monitoring budget neutrality provided by the Centers for Medicare and Medicaid Services.

(e) Documentation of low income pool activities and associated expenditures.

(f) Documentation of activities related to the implementation of choice counseling including efforts to improve health literacy and the methods used to obtain public input including recipient focus groups.

(g) Participation rates in the Enhanced Benefit Accounts Program, as established in the Centers for Medicare and Medicaid Services Special Terms and Conditions number 11-W-00206/4, which

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1411 shall include: participation levels, summary of activities and
1412 associated expenditures, number of accounts established
1413 including active participants and individuals who continue to
1414 retain access to funds in an account but no longer actively
1415 participate, estimated quarterly deposits in accounts, and
1416 expenditures from the accounts.

1417 (h) Enrollment data on employer-sponsored insurance that
1418 documents the number of individuals selecting to opt out when
1419 employer-sponsored insurance is available. The agency shall
1420 include data that identifies enrollee characteristics to include
1421 eligibility category, type of employer-sponsored insurance, and
1422 type of coverage based on whether the coverage is for the
1423 individual or the family. The agency shall develop and maintain
1424 disenrollment reports specifying the reason for disenrolling in
1425 an employer-sponsored insurance program. The agency shall also
1426 track and report on those enrollees who elect to reenroll in the
1427 Medicaid reform waiver demonstration program.

1428 (i) Documentation of progress toward the demonstration
1429 program goals.

1430 (j) Documentation of evaluation activities.

1431 (2) The annual report shall document accomplishments,
1432 program status, quantitative and case study findings,
1433 utilization data, and policy and administrative difficulties in
1434 the operation of the Medicaid reform waiver demonstration
1435 program. The agency shall submit the draft annual report no
1436 later than October 1 after the end of each fiscal year.

1437 (a) Beginning with the annual report for demonstration
1438 program year two, the agency shall include a section on the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1439 administration of enhanced benefit accounts, participation
1440 rates, an assessment of expenditures, and potential cost
1441 savings.

1442 (b) Beginning with the annual report for demonstration
1443 program year four, the agency shall include a section that
1444 provides qualitative and quantitative data that describes the
1445 impact of the low income pool on the number of uninsured persons
1446 in the state from the start of the implementation of the
1447 demonstration program.

1448 Section 9. Section 11.72, Florida Statutes, is created to
1449 read:

1450 11.72 Joint Legislative Committee on Medicaid Reform
1451 Implementation; creation; membership; powers; duties.--

1452 (1) There is created a standing joint committee of the
1453 Legislature designated the Joint Legislative Committee on
1454 Medicaid Reform Implementation for the purpose of reviewing
1455 policy issues related to expansion of the Medicaid managed care
1456 pilot program pursuant to s. 409.91211.

1457 (2) The Joint Legislative Committee on Medicaid Reform
1458 Implementation shall be composed of eight members appointed as
1459 follows: four members of the House of Representatives appointed
1460 by the Speaker of the House of Representatives, one of whom
1461 shall be a member of the minority party; and four members of the
1462 Senate appointed by the President of the Senate, one of whom
1463 shall be a member of the minority party. The President of the
1464 Senate shall appoint the chair in even-numbered years and the
1465 vice chair in odd-numbered years, and the Speaker of the House
1466 of Representatives shall appoint the chair in odd-numbered years

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and the vice chair in even-numbered years from among the
committee membership. Vacancies shall be filled in the same
manner as the original appointment. Members shall serve without
compensation, except that members are entitled to reimbursement
for per diem and travel expenses in accordance with s. 112.061.

(3) The committee shall be governed by joint rules of the
Senate and the House of Representatives which shall remain in
effect until repealed or amended by concurrent resolution.

(4) The committee shall meet at the call of the chair. The
committee may hold hearings on matters within its purview which
are in the public interest. A quorum shall consist of a majority
of members from each house, plus one additional member from
either house. Action by the committee requires a majority vote
of the members present of each house.

(5) The committee shall be jointly staffed by the
appropriations and substantive committees of the House of
Representatives and the Senate. During even-numbered years the
Senate shall serve as lead staff and during odd-numbered years
the House of Representatives shall serve as lead staff.

(6) The committee shall:

(a) Review reports, public hearing proceedings, documents,
and materials provided by the Agency for Health Care
Administration relating to the expansion of the Medicaid managed
care pilot program to other counties of the state pursuant to s.
409.91212.

(b) Consult with the substantive and fiscal committees of
the House of Representatives and the Senate which have

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jurisdiction over the Medicaid matters relating to agency action to expand the Medicaid managed care pilot program.

(c) Meet to consider and make a recommendation regarding the extent to which the expansion criteria pursuant to s. 409.91212 have been met.

(7) Within 2 days after meeting, during which the committee reviewed documents, material, and testimony related to the expansion criteria, the committee shall submit a memorandum to the Speaker of the House of Representatives, the President of the Senate, the Legislative Budget Commission, and the agency delineating the extent to which the agency met the expansion criteria.

Section 10. It is the intent of the Legislature that if any conflict exists between the provisions contained in s. 409.91211, Florida Statutes, and other provisions of chapter 409, Florida Statutes, as they relate to implementation of the Medicaid managed care pilot program, the provisions contained in s. 409.91211, Florida Statutes, shall control. The Agency for Health Care Administration shall provide a written report to the President of the Senate and the Speaker of the House of Representatives by April 1, 2006, identifying any provisions of chapter 409, Florida Statutes, that conflict with the implementation of the Medicaid managed care pilot program as created in s. 409.91211, Florida Statutes. After April 1, 2006, the agency shall provide a written report to the President of the Senate and the Speaker of the House of Representatives immediately upon identifying any provisions of chapter 409, Florida Statutes, that conflict with the implementation of the

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1522 Medicaid managed care pilot program as created in s. 409.91211,
1523 Florida Statutes.

1524 Section 11. Section 216.346, Florida Statutes, is amended
1525 to read:



1526 216.346 Contracts between state agencies; restriction on
1527 overhead or other indirect costs.--In any contract between state
1528 agencies, including any contract involving the State University
1529 System or the Florida Community College System, the agency
1530 receiving the contract or grant moneys shall charge no more than
1531 a reasonable percentage ~~5-percent~~ of the total cost of the
1532 contract or grant for overhead or indirect costs or any other
1533 costs not required for the payment of direct costs. This
1534 provision is not intended to limit an agency's ability to
1535 certify matching funds or designate in-kind contributions which
1536 will allow the drawdown of federal Medicaid dollars that do not
1537 affect state budgeting.

1538 Section 12. One full-time equivalent position is
1539 authorized and the sum of \$250,000 is appropriated for fiscal
1540 year 2006-2007 from the General Revenue Fund to the Office of
1541 Insurance Regulation of the Financial Services Commission to
1542 fund the annual review of the Medicaid managed care pilot
1543 program's risk-adjusted rate setting methodology.

1544 Section 13. This act shall take effect upon becoming a
1545 law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 47B Appropriation to Compensate Wilton Dedge
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 12B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Fiscal Council		Overton 	Kelly 
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Wilton Dedge was convicted of burglary with assault, sexual battery with a weapon, and aggravated battery and imprisoned for 22 years. During that time he was convicted twice: his first conviction was reversed and remanded. His second trial resulted in a conviction that was upheld on appeal. Wilton Dedge was released from imprisonment in 2004 based on DNA evidence that excluded him as the perpetrator of the crimes. In the 2005 session of the Legislature, attempts to compensate Wilton Dedge did not pass.

Wilton Dedge has filed suit against the State of Florida and James Crosby, the Secretary of the Florida Department of Corrections, alleging both tort and constitutional violations (see section entitled 'Pending Lawsuit' in the Effect of Proposed Changes section herein). The Second Circuit Court dismissed the claim, acknowledging that "while everyone is in agreement that what happened to Wilton Dedge is tragic, only the Legislature can address the issue of compensation under existing law." The ruling of the Second Circuit Court was appealed by Mr. Dedge in the First District Court of Appeal, and was dismissed on jurisdictional grounds on November 29, 2005.

This bill appropriates \$ 2 million from the General Revenue Fund to compensate Wilton Dedge under the following conditions:

- Delivery of an executed release and waiver of all present and future claims against the state of Florida, and any agency, instrumentality, officer, employee, or political subdivision thereof; and
- An order dismissing Mr. Dedge's current legal case with prejudice.

The authority of the Chief Financial Officer to draw a warrant to compensate Wilton Dedge expires on March 6, 2006. The bill requires that the \$2 million be paid to the State Board of Administration, which will distribute the funds as provided in a letter of agreement between Wilton Dedge and his parents and the State Board of Administration. The bill also requires that health care insurance be provided at Mr. Dedge's expense, and that he be provided access to state education programs on a scholarship basis.

The award is intended to provide compensation for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment. The bill provides that no further award will be made by the state. The bill also provides that the defense of sovereign immunity is not waived by the act.

The act also expresses legislative intent that compensation is based on a moral desire to acknowledge Wilton Dedge's actual innocence, and not on a recognition of a constitutional right or violation, and makes an apology on behalf of the state.

The bill provides for a conditional appropriation of \$2 million to be paid out of the General Revenue Fund.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0047B.FC.doc
DATE: 12/15/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – this bill affirms that it is the constitutional role of the Legislature to appropriate state funds.

B. EFFECT OF PROPOSED CHANGES:

Wilton Dedge - In January, 1982, Wilton Dedge was arrested and ultimately adjudicated guilty of burglary with assault, two counts of sexual battery, and aggravated battery. Those judgments were reversed and remanded based on trial court errors regarding the disqualification of an expert witness and improper admission of hearsay evidence.¹ Upon remand, Wilton Dedge was again convicted. That conviction was affirmed on appeal.² He was sentenced to two concurrent life sentences, plus consecutive 15-year sentences.

Ten years after his convictions, Wilton Dedge filed a motion pursuant to Florida Rule of Criminal Procedure 3.850³ seeking DNA testing. The trial court denied that motion as time-barred, which was affirmed on appeal.⁴ Mr. Dedge then filed a motion for release of DNA evidence, which motion was granted. Mr. Dedge then filed another 3.850 motion arguing that the DNA test results constituted newly discovered evidence which established that he was not guilty. The trial court denied the motion as time-barred, which was also affirmed on appeal.⁵

Ultimately the State moved for Y-Chromosome testing which was granted by order of the court. That test excluded Wilton Dedge as the perpetrator of the crimes. The Eighteenth Circuit Court in Brevard County granted the State's 3.850 motion to dismiss the charges and to discharge Mr. Dedge from custody on August 11, 2004.⁶ He was released the following day, after spending 22 years in prison.

Pending Lawsuit – Following his release, Wilton Dedge sought compensation from the Legislature in the 2005 session. Both chambers filed bills which attempted to create a policy under which the wrongfully incarcerated would be compensated. Both bills ultimately failed.⁷

Wilton Dedge and his parents then petitioned the circuit court for declaratory relief, equitable relief, damages, and expungement of his record. The request for damages included damages for taking of Mr. Dedge's liberty and for wrongful imprisonment, damages for the taking of Mr. Dedge's property interests, damages for the state's unjust enrichment resulting from his provision of services to the state without compensation, and damages for his parents who paid for his legal defense.⁸ The Second Circuit court dismissed the petition, making the following findings:

¹ Dedge v. State, 442 So.2d 429 (Fla. 5th DCA 1983).

² Dedge v. State, 479 So.2d 882 (Fla. 5th DCA 1985). The judgments were affirmed on all points, but the minimum mandatory portions of Dedge's sexual battery sentences were reversed and remanded for the trial court to delete the minimum mandatory provisions.

³ Rule 3.850 of the Florida Rules of Criminal Procedure allows a person to claim that judgment was entered or that the sentence was imposed in violation of the Constitution or laws of the United States or of Florida, that the court was without jurisdiction to enter the judgment or to impose the sentence, that the sentence was in excess of the maximum authorized by law, that the plea was given involuntarily, or that the judgment or sentence is otherwise subject to collateral attack. Such prisoner may move that the sentence be vacated, set aside, or corrected. The motion must be filed within two years after the judgment and sentence became final in non-capital cases. There are enumerated exceptions to the time limitation, none of which were found to apply in Mr. Dedge's case.

⁴ Dedge v. State, 723 So.2d 322 (Fla. 5th DCA 1998).

⁵ Facts recited in Dedge v. State, 832 So.2d 835, 836 (Fla. 5th DCA 2002).

⁶ Order, Case No. 05-1982-00135, Eighteenth Judicial Circuit, August 11, 2004. Based on the earlier denials of Mr. Dedge's 3.850 motions as time-barred, it would appear that Mr. Dedge's release on the instant 3.850 motion was granted based on the joint nature of the motion, rather than a strict application of the rule.

⁷ HCR 1879 and CS/CS/SB 1964 (second engrossed).

⁸ Wilton Dedge, Walter Gary Dedge, Sr., and Mary Dedge v. James Crosby, Secretary of the Department of Corrections, and the State of Florida, Petition for the Expungement of Record, Factual Findings and other Relief Including Actions for Declaratory Relief and

- Wilton Dedge's parents have no standing to recover damages suffered by their adult child under existing Florida law;
- Wilton Dedge failed to comply with Florida statutes relating to the expunction of Mr. Dedge's criminal records;⁹
- Wilton Dedge's claims for damages are banned by sovereign immunity;
- Wilton Dedge seeks to have the court rule on matters which are clearly the province of the legislative branch of government, not the judicial branch; and
- Only the Legislature can address the issue of compensation under existing law.¹⁰

The order dismissing the petition was appealed to the First District Court of Appeal,¹¹ and was dismissed for lack of jurisdiction on November 29, 2005.¹² Mr. Dedge made two arguments on appeal: 1) the trial court erred in holding that there is no judicial remedy for the wrongful taking of liberty; and 2) the trial court erred in dismissing the claim of Walter and Mary Dedge (Wilton Dedge's parents).

Compensation – This bill acknowledges that Mr. Dedge incurred significant losses as a result of his conviction and physical confinement, that he provided valuable services for the state while imprisoned, and that his parents incurred significant expenses related to his legal defense. The bill expresses legislative intent that compensation provided is based on a moral desire to acknowledge his actual innocence, and not on a recognition of a constitutional right or violation. The bill also issues an apology to Wilton Dedge on behalf of the state.

The bill appropriates \$2 million from the General Revenue Fund to be paid to the State Board of Administration and authorizes the Chief Financial Officer (CFO) to draw a warrant upon funds in the State Treasury. After March 6, 2006, the CFO is no longer authorized to draw the warrant.

The warrant is payable to the State Board of Administration upon delivery by Wilton Dedge to the CFO, the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives of all of the following:

- An executed release and waiver on behalf of Wilton Dedge, and his parents, heirs, successors, and assigns, forever releasing the State of Florida and any agency, instrumentality, officer, employee, or political subdivision thereof, or any other entity subject to the provisions of s. 768.28, Florida Statutes, from any and all present or future claims arising out of the factual situation in connection with the conviction for which compensation is awarded; and
- An order from the court having jurisdiction over the legal claim dismissing the claim with prejudice.¹³

The State Board of Administration is directed to distribute funds to Mr. Dedge in accordance with the letter of agreement between the Wilton Dedge, his parents, and the State Board of Administration. The bill requires the State Board of Administration, the State Division of Retirement, and the State Department of Management Services to provide such support and assistance as directed by the terms of the letter of agreement, and are authorized and directed to provide for health care insurance, including mental health and dental coverage for Wilton Dedge, at his expense. The bill also requires that Mr. Dedge be provided access to state education programs on a scholarship basis without tuition

Damages and Equitable Relief under Extraordinary Writ Authority; filed in the Eighteenth Circuit Court and transferred to the Second Circuit Court, case no. 37 2005 CA 001807, filed in June 2005.

⁹ Section 943.0585, F.S.

¹⁰ Dedge et al v. Crosby and State, Order Granting Amended Motion to Dismiss, Second Circuit Court, case no. 2005-CA-001807, filed August 29, 2005.

¹¹ Dedge et al v. Crosby and State, First District Court of Appeal, case no. 1D05-4288.

¹² Dismissal for lack of jurisdiction based on the non-final nature of the underlying trial court order.

¹³ The term "dismissal with prejudice" generally means that the dismissal is conclusive of the rights of the parties as if the action had been prosecuted to final adjudication adverse to the plaintiff. Black's Law Dictionary, 5th Edition, p. 1438.

or fees, provided that he is required to meet and maintain the regular admission requirements of, and be registered at, such state educational program.

The bill provides that passage of this act shall not be deemed to waive the defense of sovereign immunity, nor to increase the statutory limits of liability. Further, the bill is intended to provide sole compensation for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment.

The act takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1 provides that the facts stated in the preamble are found and declared to be true.

Section 2 appropriates \$2 million from the General Revenue Fund.

Section 3 directs the Chief Financial Officer to draw the warrant to the State Board of Administration, which is directed to disburse the funds in accordance with the specified letter of agreement. Section 3 also directs that health care insurance be provided as specified, and that access to state educational programs be provided.

Section 4 requires the State Board of Administration to disburse the funds upon delivery of an executed release and waiver of governmental liability, and an order of dismissal with prejudice.

Section 5 provides that the Legislature is not deemed to have waived any defense of sovereign immunity or to have increased the limits of liability.

Section 6 provides that the award is intended to provide sole compensation for any and all present and future claims.

Section 7 provides that the act shall become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill authorizes the payment of \$2 million out of the General Revenue Fund, if specific conditions are met.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Suits Against the State – Article X, section 13 of the Florida Constitution provides that, “Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.” If passed, this bill would be a general law.

Separation of Powers – Article II, section 3 of the Florida Constitution provides that, “No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.” By acting upon its unique constitutional authority to make appropriations,¹⁴ the Legislature expresses its intent that compensation of Wilton Dedge belongs squarely within the Legislature’s constitutional authority. The bill further adheres to the Separation of Powers doctrine by requiring the dismissal of any pending court case prior to making the appropriation, thus avoiding a legislative encroachment in an ongoing judicial matter.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The date on line 97 should be “March 6, 2006” rather than “2005.”

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹⁴ The power to appropriate state funds is legislative and to be exercised only through duly enacted statutes. *Chiles v. Children A, B, C, D, E, and F*, 589 So.2d 260 (Fla. 1991) and Article VII, section 1(c) of the Florida Constitution which provides that “no money shall be drawn from the treasury except in pursuance of appropriation made by law.”

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1 A bill to be entitled
2 An act providing an appropriation to compensate Wilton
3 Dedge; providing authority to draw warrant; providing a
4 limitation on the authority to draw the warrant; requiring
5 a specified distribution of funds; providing a condition
6 for payment; providing legislative intent; providing an
7 effective date.

8
9 WHEREAS, Wilton Dedge was convicted of rape and imprisoned
10 for 22 years, and

11 WHEREAS, the initial conviction was appealed and reversed,
12 and

13 WHEREAS, on retrial Wilton Dedge was again convicted, which
14 conviction was affirmed on appeal, and

15 WHEREAS, the Circuit Court in the Eighteenth Judicial
16 Circuit granted the state's motion to dismiss pending charges
17 and discharge Wilton Dedge from custody based on DNA evidence
18 that excluded Wilton Dedge as the perpetrator of the crime, and

19 WHEREAS, Wilton Dedge was in fact released on August 12,
20 2004, and

21 WHEREAS, Wilton Dedge and his parents filed suit in the
22 Second Judicial Circuit requesting, among other things, a
23 declaratory judgment that Mr. Dedge's liberty was taken by the
24 government without compensation and requesting damages for the
25 taking of Mr. Dedge's liberty and property, and

26 WHEREAS, the suit was dismissed by order of the Second
27 Judicial Circuit court, which found that Mr. Dedge's parents
28 have no standing to recover damages suffered by an adult child,

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29 that claims for damages from the state are banned by the
30 doctrine of sovereign immunity, and that only the Legislature
31 can address the issue of compensation under existing law, and

32 WHEREAS, Wilton Dedge has appealed the order to the First
33 District Court of Appeal, Case No. 1D05-4288, which appeal is
34 pending, and

35 WHEREAS, the Legislature recognizes that no system of
36 justice is impervious to human error. "Given the myriad
37 safeguards provided to assure a fair trial, and taking into
38 account the reality of the human fallibility of the
39 participants, there can be no such thing as an error-free,
40 perfect trial, and ... the Constitution does not guarantee such
41 a trial." United States v. Hasting, 461 U.S. 499(1983), and

42 WHEREAS, the Legislature acknowledges that the state's
43 system of justice yielded an imperfect result with tragic
44 consequences in this case, and

45 WHEREAS, the Legislature acknowledges that Wilton Dedge
46 incurred significant losses unique to Wilton Dedge as a result
47 of his conviction and physical confinement and that all the
48 losses flowed from the fact that he was physically restrained
49 and prevented from exercising the freedom to which all innocent
50 citizens are entitled, and

51 WHEREAS, the Legislature acknowledges that Wilton Dedge
52 performed valuable services for the state while imprisoned,
53 including serving as a licensed waste-water plant operator, and

54 WHEREAS, the Legislature acknowledges that Wilton Dedge's
55 parents incurred significant expenses related to his defense and

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56 related to the prolonged efforts to establish his innocence and
57 secure his release from prison, and

58 WHEREAS, the Legislature is providing compensation to
59 Wilton Dedge to acknowledge the fact that he suffered
60 significant damages unique to Wilton Dedge which resulted from
61 his physical restraint and the deprivation of freedom, and

62 WHEREAS, the Legislature is providing compensation to
63 Wilton Dedge based on a moral desire to acknowledge his
64 undisputed and actual innocence and not on a recognition of a
65 constitutional right or violation, and

66 WHEREAS, the Legislature intends that compensation made
67 pursuant to this act shall be the sole compensation to be
68 provided by the state for any and all present and future claims
69 arising out of the factual situation in connection with Wilton
70 Dedge's conviction and imprisonment, and

71 WHEREAS, the Legislature apologizes to Wilton Dedge on
72 behalf of the state, NOW, THEREFORE,

73
74 Be It Enacted by the Legislature of the State of Florida:

75
76 Section 1. The facts stated in the preamble to this act
77 are found and declared to be true.

78 Section 2. There is appropriated from the General Revenue
79 Fund the sum of \$2,000,000 to be paid to Wilton Dedge under the
80 conditions provided in this act.

81 Section 3. The Chief Financial Officer is directed to draw
82 a warrant to the State Board of Administration in the sum of
83 \$2,000,000 for the purposes provided in this act, the funds to

84 be distributed in accordance with the letter of agreement
85 between Wilton Dedge, Mr. and Mrs. Walter Gary Dedge, Sr., and
86 the State Board of Administration. The State Board of
87 Administration, the State Division of Retirement, and the State
88 Department of Management Services are required to provide such
89 support and assistance as directed by the terms of the letter of
90 agreement and are authorized and directed to provide for health
91 care insurance, including mental health and dental coverage for
92 Wilton Dedge, the expense of which shall be borne by Wilton
93 Dedge. Access to state education programs shall be provided on a
94 scholarship basis without tuition or fees, provided that Wilton
95 Dedge shall be required to meet and maintain the regular
96 admission requirements of, and be registered at, such state
97 educational program. After March 6, 2005, the Chief Financial
98 Officer is no longer authorized to draw a warrant under this
99 section.

100 Section 4. The State Board of Administration shall
101 disburse funds under the letter of agreement upon delivery by
102 Wilton Dedge to the Chief Financial Officer, the State Board of
103 Administration, the President of the Senate, and the Speaker of
104 the House of Representatives of all of the following:

105 (1) An executed release and waiver on behalf of Wilton
106 Dedge and his parents, heirs, successors, and assigns forever
107 releasing the State of Florida and any agency, instrumentality,
108 officer, employee, or political subdivision thereof or any other
109 entity subject to the provisions of s. 768.28, Florida Statutes,
110 from any and all present or future claims the claimant or any of
111 his parents, heirs, successors, or assigns may have against such

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112 enumerated entities and arising out of the factual situation in
113 connection with the conviction for which compensation is
114 awarded.

115 (2) An order from the court having jurisdiction of the
116 legal claim filed by Wilton Dedge and his parents dismissing the
117 claim with prejudice, provided that it is the intent of this
118 legislation to allow Wilton Dedge to obtain full expungement of
119 the judicial and executive branch records of his conviction as
120 otherwise provided by law.

121 Section 5. The Legislature shall not be deemed by this act
122 to have waived any defense of sovereign immunity or to have
123 increased the limits of liability on behalf of the state or any
124 person or entity subject to the provisions of s. 768.28, Florida
125 Statutes, or any other law.

126 Section 6. This award is intended to provide sole
127 compensation for any and all present and future claims arising
128 out of the factual situation in connection with Wilton Dedge's
129 conviction and imprisonment. No further award for attorney's
130 fees, lobbying fees, costs, or other similar expenses will be
131 made by the state.

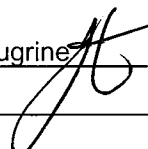

132 Section 7. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 41B
SPONSOR(S): Goodlette
TIED BILLS:

Judges

IDEN./SIM. BILLS: SB 14B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Fiscal Council		DeBeaugrine 	Kelly 
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Supreme Court issued Order No. SC04-2154, dated November 30, 2004, certifying the need for 110 additional judges. During the 2005 Legislative Session, 35 circuit court and 20 county court judgeships were established (chapter 2005-150, Laws of Florida).

This bill revises sections 26.031 and 34.022, Florida Statutes, as amended by chapter 2005-150, Laws of Florida, creating 3 new circuit court judgeships in the Twentieth Judicial Circuit and 2 new county court judgeships in Collier County effective January 2, 2006. Judges for these new positions will be appointed by the Governor.

The bill authorizes General Revenue funds for the State Court System of \$643,372 to fund 11 positions for Fiscal Year 2005-2006. This includes the 5 new judges plus associated support staff. Estimated annual recurring costs are projected to be \$1.2 million.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Certification of Need for Additional Judges

Section 9, Article V of the State Constitution requires the Florida Supreme Court to recommend to the Legislature the need for additional judges. The Florida Supreme Court was directed in budget proviso to the 1998 General Appropriations Act to develop "a Delphi-based case load weighting system to determine the optimum caseloads for circuit and county judges and to determine the need for additional circuit and county court judges." The system was used to develop the Court's latest certification of need for new trial court judgeships.

As a result of the last caseload analysis, the Supreme Court issued Order No. SC04-2154, dated November 30, 2004, certifying the need for 67 circuit, 41 county and 2 appellate judges for a total of 110 new judges.

The Supreme Court's Certification Order recommended 3 judges for the Twentieth Circuit and 2 judges for Collier County.

2005 Legislation

Senate Bill 2048 passed during the 2005 Legislative Session (chapter 2005-150, Laws of Florida), creating 35 new circuit court and 20 new county court judgeships. The bill staggered the effective dates: 18 circuit and 10 county judge positions were effective on November 1, 2005 and 17 circuit and 10 county judge positions are effective on January 2, 2006.

Circuit court positions were established as follows:

- Four judges each for the Tenth and Thirteenth Circuits;
- Three judges each for the Fifth, Sixth, Eleventh, Seventeenth and Nineteenth Circuits;
- Two judges each for the Seventh and Ninth Circuits;
- One judge each for the First, Second, Third, Fourth, Eighth, Fourteenth, Fifteenth and Eighteenth Circuits.

County court positions were established as follows:

- Two judges each for Broward and Hillsborough County.
- One judge each for Bay, Brevard, Duval, Hernando, Lake, Lee, Manatee, Martin, Miami-Dade, Orange, Palm Beach, Pasco, Pinellas, Seminole, St. Lucie, and Volusia Counties.

No new judges were authorized for the Twentieth Circuit or any of the counties that make up the Twentieth Circuit.

Effect of This Bill

HB 41B increases the number of circuit judges for the Twentieth Circuit from 23 to 26 and increases the number of county court judges for Collier County from 3 to 5. The bill also authorizes 11 positions and provides \$643,372 from the General Revenue Fund to the State Courts System to cover the cost of the judges and associated supported staff. Support staff consists of a law clerk and 3 judicial assistants for the circuit and 2 judicial assistants for the county. Judges will be appointed by the Governor and take office on January 2, 2006.

C. SECTION DIRECTORY:

Section 1. Amends section 26.031, Florida Statutes, as amended by section 2 of chapter 2005-150, Laws of Florida, providing for 3 new circuit judges for the Twentieth Circuit effective January 2, 2006.
Section 2. Amends section 34.022, Florida Statutes, as amended by section 4 of chapter 2005-150, Laws of Florida, providing for 2 new county judges for Collier County effective January 2, 2006.
Section 3. Provides that the judges filling the new offices shall be appointed by the Governor.
Section 4. Provides the State Court System with an appropriation from the General Revenue Fund, 11 new positions and associated salary rate.
Section 5. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides for an appropriation of \$643,372 from the General Revenue Fund to cover the cost of the 11 positions for approximately one-half of Fiscal Year 2005-2006. Subsequent annual recurring appropriations will be approximately \$1.2 million. Salary rate of 877,168 is provided to enable the courts to pay currently authorized salary amounts for judges and to authorize salaries at 10 percent above the minimum for the respective pay range for support staff.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The cost of county judges and judicial assistants are paid for by the state. Under section 29.008, Florida Statutes, counties are responsible for facilities, security, communications and information technology costs for county and circuit courts. This bill could result in additional costs in these areas. In addition, the bill could result in an increase in the workload of the clerk of the courts in the Twentieth Circuit and in Collier County.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

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A bill to be entitled
 An act relating to judges; amending s. 26.031, F.S.;
 revising the number of circuit court judges in the 20th
 judicial circuit; amending s. 34.022, F.S.; revising the
 number of county court judges in Collier County; providing
 for the additional judges provided under the act to be
 appointed by the Governor; providing an appropriation and
 authorizing positions and approved salary rate; providing
 effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective January 2, 2006, section 26.031,
 Florida Statutes, as amended by section 2 of chapter 2005-150,
 Laws of Florida, is amended to read:

26.031 Judicial circuits; number of judges.--The number of
 circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First.....	22
(2) Second.....	16
(3) Third.....	7
(4) Fourth.....	32
(5) Fifth.....	28
(6) Sixth.....	44
(7) Seventh.....	26
(8) Eighth.....	13
(9) Ninth.....	40

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29	(10) Tenth	26
30	(11) Eleventh	77
31	(12) Twelfth	19
32	(13) Thirteenth	41
33	(14) Fourteenth	10
34	(15) Fifteenth	35
35	(16) Sixteenth	4
36	(17) Seventeenth	56
37	(18) Eighteenth	25
38	(19) Nineteenth	18
39	(20) Twentieth	<u>26</u> 23

40

41 Section 2. Effective January 2, 2006, section 34.022,
 42 Florida Statutes, as amended by section 4 of chapter 2005-150,
 43 Laws of Florida, is amended to read:

44 34.022 Number of county court judges for each county.--The
 45 number of county court judges in each county shall be as
 46 follows:

47

48	COUNTY	TOTAL
49	(1) Alachua	5
50	(2) Baker	1
51	(3) Bay	4
52	(4) Bradford	1
53	(5) Brevard	9
54	(6) Broward	28
55	(7) Calhoun	1
56	(8) Charlotte	2

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57	(9)	Citrus	1
58	(10)	Clay	2
59	(11)	Collier	<u>5</u> 3
60	(12)	Columbia	1
61	(13)	DeSoto	1
62	(14)	Dixie	1
63	(15)	Duval	16
64	(16)	Escambia	5
65	(17)	Flagler	1
66	(18)	Franklin	1
67	(19)	Gadsden	1
68	(20)	Gilchrist	1
69	(21)	Glades	1
70	(22)	Gulf	1
71	(23)	Hamilton	1
72	(24)	Hardee	1
73	(25)	Hendry	1
74	(26)	Hernando	2
75	(27)	Highlands	1
76	(28)	Hillsborough	17
77	(29)	Holmes	1
78	(30)	Indian River	2
79	(31)	Jackson	1
80	(32)	Jefferson	1
81	(33)	Lafayette	1
82	(34)	Lake	3
83	(35)	Lee	7
84	(36)	Leon	5

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85	(37)	Levy	1
86	(38)	Liberty	1
87	(39)	Madison	1
88	(40)	Manatee	4
89	(41)	Marion	4
90	(42)	Martin	3
91	(43)	Miami-Dade	42
92	(44)	Monroe	4
93	(45)	Nassau	1
94	(46)	Okaloosa	3
95	(47)	Okeechobee	1
96	(48)	Orange	16
97	(49)	Osceola	3
98	(50)	Palm Beach	18
99	(51)	Pasco	5
100	(52)	Pinellas	15
101	(53)	Polk	9
102	(54)	Putnam	2
103	(55)	St. Johns	2
104	(56)	St. Lucie	4
105	(57)	Santa Rosa	2
106	(58)	Sarasota	5
107	(59)	Seminole	6
108	(60)	Sumter	1
109	(61)	Suwannee	1
110	(62)	Taylor	1
111	(63)	Union	1
112	(64)	Volusia	10

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113 (65) Wakulla1
 114 (66) Walton1
 115 (67) Washington1

116
 117 Section 3. The judges filling new offices created by this
 118 act shall be appointed by the Governor.

119 Section 4. The sums of \$616,776 in recurring funds and
 120 \$26,596 in nonrecurring funds are appropriated from the General
 121 Revenue Fund to the circuit and county courts for the 2005-2006
 122 fiscal year, and 11 full-time positions and 877,168 in approved
 123 salary rate are authorized.

124 Section 5. Except as otherwise expressly provided in this
 125 act, this act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 41B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Goodlette offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Effective January 2, 2006, section 26.031,
Florida Statutes, as amended by section 2 of chapter 2005-150,
Laws of Florida, is amended to read:

26.031 Judicial circuits; number of judges.--The number of
circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	22
(2) Second	16
(3) Third	7
(4) Fourth	32
(5) Fifth	28
(6) Sixth	44
(7) Seventh	26
(8) Eighth	13
(9) Ninth	40

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22	(10) Tenth	26
23	(11) Eleventh	77
24	(12) Twelfth	19
25	(13) Thirteenth	41
26	(14) Fourteenth	10
27	(15) Fifteenth	35
28	(16) Sixteenth	4
29	(17) Seventeenth	56
30	(18) Eighteenth	25
31	(19) Nineteenth	18
32	(20) Twentieth	<u>25</u> 23

Section 2. Effective January 2, 2006, section 34.022, Florida Statutes, as amended by section 4 of chapter 2005-150, Laws of Florida, is amended to read:

34.022 Number of county court judges for each county.--The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(1) Alachua	5
(2) Baker	1
(3) Bay	4
(4) Bradford	1
(5) Brevard	9
(6) Broward	28
(7) Calhoun	1
(8) Charlotte	2
(9) Citrus	1
(10) Clay	2

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

52	(11)	Collier	<u>5</u> 3
53	(12)	Columbia	1
54	(13)	DeSoto	1
55	(14)	Dixie	1
56	(15)	Duval	16
57	(16)	Escambia	5
58	(17)	Flagler	1
59	(18)	Franklin	1
60	(19)	Gadsden	1
61	(20)	Gilchrist	1
62	(21)	Glades	1
63	(22)	Gulf	1
64	(23)	Hamilton	1
65	(24)	Hardee	1
66	(25)	Hendry	1
67	(26)	Hernando	2
68	(27)	Highlands	1
69	(28)	Hillsborough	17
70	(29)	Holmes	1
71	(30)	Indian River	2
72	(31)	Jackson	1
73	(32)	Jefferson	1
74	(33)	Lafayette	1
75	(34)	Lake	3
76	(35)	Lee	7
77	(36)	Leon	5
78	(37)	Levy	1
79	(38)	Liberty	1
80	(39)	Madison	1
81	(40)	Manatee	4

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

82	(41)	Marion	4
83	(42)	Martin	3
84	(43)	Miami-Dade	42
85	(44)	Monroe	4
86	(45)	Nassau	1
87	(46)	Okaloosa	3
88	(47)	Okeechobee	1
89	(48)	Orange	16
90	(49)	Osceola	3
91	(50)	Palm Beach	18
92	(51)	Pasco	5
93	(52)	Pinellas	15
94	(53)	Polk	9
95	(54)	Putnam	2
96	(55)	St. Johns	2
97	(56)	St. Lucie	4
98	(57)	Santa Rosa	2
99	(58)	Sarasota	5
100	(59)	Seminole	6
101	(60)	Sumter	1
102	(61)	Suwannee	1
103	(62)	Taylor	1
104	(63)	Union	1
105	(64)	Volusia	10
106	(65)	Wakulla	1
107	(66)	Walton	1
108	(67)	Washington	1

110 Section 3. The judges filling new offices created by this
111 act shall be appointed by the Governor.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Section 4. The sums of \$517,568 in recurring funds and \$20,214 in nonrecurring funds are appropriated from the General Revenue Fund to the circuit and county courts for the 2005-2006 fiscal year, and 9 full-time equivalent positions and 705,157 in approved salary rate are authorized. The sum of \$41,846 in recurring funds is appropriated from the General Revenue Fund to the Office of the State Attorney 20th Circuit for the 2005-2006 fiscal year, and 2 full-time equivalent positions and 58,791 in approved salary rate are authorized.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

Remove Title and insert:

An act relating to judges; amending s. 26.031, F.S.; revising the number of circuit court judges in the 20th judicial circuit; amending s. 34.022, F.S.; revising the number of county court judges in Collier County; providing for the additional judges provided under the act to be appointed by the Governor; providing appropriations and authorizing positions and approved salary rate; providing effective dates.

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Fiscal Council

ADDENDUM 1

**Joe Negron, Chair
Fred Brummer, Vice Chair**

**December 06, 2005
9:30 a.m. – 12:00 p.m.
Morris Hall**

HOUSE BILL HB 31B

Relating to
NASCAR

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 31B Specialty License Plates
SPONSOR(S): Patterson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 16B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 1 N	Levin	Diez-Arguelles
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 31B creates the "NASCAR" specialty license plate, and it establishes an annual use fee of \$25, to be paid by purchasers of the plate in addition to license taxes and fees. Annual use fees are distributed to the NASCAR Hall of Fame to be used exclusively for the construction and operation of the NASCAR Hall of Fame. The authorization of the NASCAR license plate is contingent upon the City of Daytona Beach being designated by the National Association for Stock Car Auto Racing, Inc., as the site for the official NASCAR Hall of Fame.

The bill provides for the distribution of annual use fees to the NASCAR Hall of Fame to be used exclusively for the construction and operation of the NASCAR Hall of Fame.

The creation of the NASCAR license plate is contingent upon an organization meeting the requirements of s. 320.08053, F.S., prior to approval of a license plate by the Department of Highway Safety and Motor Vehicles ("DHSMV").

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

If the NASCAR license plate satisfies all the conditions for issuance, the bill appears to increase the responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) to develop and provide for the manufacture of a new license plate, and it also requires county Tax Collectors to maintain an appropriate inventory and administer the new plate.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the State University System. The Legislature has subsequently authorized ninety-six more specialty license plates.

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity and designated in statute. Under s. 320.08053, F.S., an organization may seek legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the DHSMV:

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 15,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to \$60,000 defraying DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements should be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action. Alternatively, the Legislature may authorize creation of the license plate following an organization's compliance with s. 320.08053, F.S.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If the legislation passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype. PRIDE at Union Correctional Facility, the contracted manufacturer of license plates, laminates, embosses and roll-coats sample plates that must be submitted to FHP, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors' offices for sale to the public.

A particular specialty license plate must be discontinued if the number of valid specialty plate registrations falls below 1,000 for at least 12 consecutive months. To date, three plates have been discontinued for lack of sales and three plates have been discontinued because of their temporary nature.

The Legislature has authorized 106 specialty license plates to date. Sales of specialty license plates generated more than \$26 million in annual revenue use fees in FY 2003-2004, and more than \$29 million in FY 2004-2005. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than \$280 million.

Effect of Proposed Changes

HB 31B creates the "NASCAR" specialty license plate, and establishes an annual use fee of \$25, to be paid by purchasers of the plate in addition to license taxes and fees. Annual use fees are to be distributed to the NASCAR Hall of Fame to be used exclusively for the construction and operation of the NASCAR Hall of Fame.

The bill is contingent upon the City of Daytona Beach being designated by the National Association for Stock Car Auto Racing, Inc. as the site for the official NASCAR Hall of Fame facility.

The creation of the NASCAR license plate is contingent upon an organization meeting the requirements of s. 320.08053, F.S., prior to approval of a license plate by the "DHSMV".

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08056, F.S., providing an annual use fee of \$25.

Section 2. Amends s. 320.08058, F.S., creating the NASCAR specialty license plate and providing for the distribution of annual use fees collected from its sale.

Section 3. Provides an effective date 30 days after the city of Daytona Beach is designated as the official site of the NASCAR Hall of Fame facility.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
1. Revenues:			
HS Op. TF (App. Fee):	\$ 60,000	\$ -0-	\$ -0-
2. Expenditures:			
(Data Processing):	\$ 7,560	\$ -0-	\$ -0-

HS Op. TF

(Salaries/Bene.):	\$ 15,000	\$ -0-	\$ -0-
(Purchase of License Plates):	\$ 36,900	\$ -0-	\$ -0-
TOTAL:	\$ 59,460	\$ -0-	\$ -0-

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those persons electing to purchase a NASCAR plate would be required to pay a \$25 annual use fee in addition to the license taxes and fees that are due annually.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

No exercise of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that the annual use fees must be distributed to the NASCAR Hall of Fame. However, the NASCAR Hall of Fame is not a legal entity and will not be able to receive distributions.

The sentence beginning on line 23 is redundant of Section 3.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 31B

2005

A bill to be entitled
An act relating to specialty license plates; amending ss.
320.08056 and 320.08058, F.S.; creating the NASCAR license
plate under certain circumstances; providing an annual use
fee; providing for the distribution of annual use fees
received from the sale of such plates; providing a
conditional effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (eee) is added to subsection (4) of
section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.--

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

(eee) NASCAR license plate, \$25.

Section 2. Subsection (57) is added to section 320.08058,
Florida Statutes, to read:

320.08058 Specialty license plates.--

(57) NASCAR LICENSE PLATES.--

(a) Upon an organization meeting the requirements of s.
320.08053, the department shall develop a NASCAR license plate
as provided in this subsection. The authorization of the NASCAR
license plate as provided in this subsection is contingent upon
the City of Daytona Beach being designated by the National
Association for Stock Car Auto Racing, Inc., as the site for the
official NASCAR Hall of Fame. NASCAR license plates must bear
the colors and design approved by the department. The word

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29 "Florida" must appear at the top of the plate, and the term
30 "NASCAR" must appear at the bottom of the plate. The NASCAR Hall
31 of Fame, after consultation with the National Association for
32 Stock Car Auto Racing, Inc., and the International Speedway
33 Corporation, may submit a sample plate for consideration by the
34 department.

35 (b) The annual use fees shall be distributed to the NASCAR
36 Hall of Fame to be used exclusively for the construction and
37 operation of the NASCAR Hall of Fame.

38 Section 3. This act shall take effect 30 days after the
39 City of Daytona Beach is designated by the National Association
40 for Stock Car Auto Racing, Inc., as the site for the official
41 NASCAR Hall of Fame facility.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 31B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Patterson offered the following:

Amendment

Remove line(s) 21 and insert:

(a) Upon the NASCAR Hall of Fame, Inc., meeting the requirements
of s.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (3)

Bill No. 31B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Patterson offered the following:

Amendment

Remove line(s) 36 and insert:

Hall of Fame, Inc., to be used exclusively for the construction
and

000000

HOUSE BILL

HB 15B

Relating to
AD VALOREM
DISCOUNT

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 15B Ad Valorem Property Tax Payment Discounts
SPONSOR(S): Hasner and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 10B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	9 Y, 0 N	Monroe	Diez-Arguelles
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Under current law, property taxes are due and payable in November and are delinquent on April 1st of the following year. Taxpayers are given an early payment discount on their property tax bills depending upon when the payment is made. Under this bill, a county which was declared a major disaster area by the President of the United States because of a 2005 named storm may, by an affirmative vote of the local governing body, authorize any of the following discount periods:

- Four percent for taxes paid by January 31, 2006,
- Three percent for taxes paid by February 28, 2006, and
- Two percent for taxes paid by March 31, 2006.

These discount periods will not apply to payments made on behalf of taxpayers by financial institutions.

This bill takes effect upon becoming law.

The fiscal impact of this bill is limited to local governments and is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – by allowing counties to extend the discount periods this bill could result in some taxpayers paying less in property taxes.

B. EFFECT OF PROPOSED CHANGES:

Under current law, property taxes are due and payable in November and are delinquent on April 1st of the following year. Taxpayers are given an early payment discount on their property tax bills depending upon when the payment is made. Section 197.162, F.S., specifies that the discount is four percent for payments made in November or within 30 days of the mailing of the tax bills, three percent for payments made in December, two percent for payments made in January and one percent for payments made in February. Payments made in March or within 30 days of the date of delinquency receive no discount.

Under this bill, a county which was declared a major disaster area by the President of the United States because of a 2005 named storm may, by affirmative vote of the local governing body, authorize any of the following extended discount periods:

- Four percent for taxes paid by January 31, 2006,
- Three percent for taxes paid by February 28, 2006, and
- Two percent for taxes paid by March 31, 2006.

These discount periods will not apply to payments made on behalf of taxpayers by financial institutions.

C. SECTION DIRECTORY:

Section 1 provides for additional or extended discount periods to be authorized by certain counties.

Section 2 specifies that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Because the discount periods provided for in this bill are only available if a county chooses to enact them, the fiscal impact of this legislation is impossible to predict. However, if all counties which have already been declared disaster areas and approved for individual assistance were to implement the discount periods to their fullest extent, the revenue estimating conference has estimated the fiscal impact would be \$46.9 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent the some taxpayers may receive a greater discount than they would otherwise have been eligible for, this bill will reduce taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Because the 2005 hurricane season has now ended, the counties which are eligible for this program can be determined and this bill could be seen as a general bill of local application. Under Article III, Section 11(a)(2), Florida Constitution, there can be no general law of local application concerning the "assessment or collection of taxes for state or county purposes, including extension of time therefore".

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

By changing the description of the class of counties eligible for this program to a class which any county could become a member of, this bill becomes a general bill rather than a general bill of local application, and any potential constitutional problems are avoided.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 15B

2005

1 A bill to be entitled

2 An act relating to ad valorem property tax payment
3 discounts; authorizing certain counties to extend the time
4 during which ad valorem property tax payments made by
5 property owners may be eligible for discounts for early
6 payment under certain circumstances; providing an
7 exception; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Notwithstanding s. 197.162, Florida Statutes,
12 in any county that has been declared a major disaster area by
13 the President of the United States because of a 2005 named
14 storm, and upon an affirmative vote of the governing body of
15 that county, property tax payments made by the owners of the
16 property shall be eligible for any of the following early
17 payment discounts authorized by the county: 4 percent if made by
18 January 31, 2006, 3 percent if made by February 28, 2006, and 2
19 percent if made by March 31, 2006. This provision shall not
20 apply to payments made on behalf of property owners by financial
21 institutions.

22 Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 15B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Brummer offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. (1) Notwithstanding s. 197.162, Florida Statutes, upon an affirmative vote of the governing body of any county that has been declared a major disaster area approved for individual assistance by the President of the United States, the property tax payment made by an owner of property in that county is eligible for an early-payment discount. The county governing body may adopt by emergency ordinance any or all of the following options for such discounts:

(a) Four percent for a payment made by January 31, 2006.

(b) Three percent for a payment made by February 28, 2006.

(c) Two percent for a payment made by March 31, 2006.

(2) The Tax Collector shall implement any discount period adopted under subsection (1). Subsection (1) does not apply to payments made on behalf of property owners by the holder or mortgagee of an unsatisfied mortgage, lienholder, or vendee under a contract for deed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

(3) If the governing body of any county adopts a discount period as authorized in subsection (1) after tax notices have already been mailed for that tax year, no additional direct mail notice shall be necessary to notify taxpayers of the change. Notice by advertisement in a newspaper of general circulation and posting at all offices of the tax collector shall be sufficient notice.

(4) This act expires April 1, 2006.

Section 2. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to the payment of ad valorem taxes;
allowing the governing body of a county that has been
declared a major disaster area to adopt an ordinance
extending the time in which property tax payments made by
property owners qualify for early-payment discounts;
providing options that counties may choose; providing that
additional tax notices are not required; providing for
expiration of the act; providing an effective date.



Fiscal Council

ADDENDUM 2

**Joe Negron, Chair
Fred Brummer, Vice Chair**

**December 06, 2005
9:30 a.m. – 12:00 p.m.
Morris Hall**

HOUSE BILL HB 1B

Relating to
SLOTS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1B PCB BR 05B-01
SPONSOR(S): Business Regulation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Business Regulation Committee	17 Y, 0 N	Morris	Liepshutz
1) Commerce Council	13 Y, 0 N	Morris	Bohannon
2) Fiscal Council		Belcher	Kelly
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill implements Article X, Section 23 of the State Constitution which authorized, contingent upon voter approval in a local referendum, the operation of slot machines at certain existing pari-mutuel facilities in Broward and Miami-Dade Counties.

The bill authorizes Class III Las Vegas-style slot machines, limits the number of machines that may be operated at a facility to no more than 1,000 per facility, and imposes a flat tax of 55% on slot machine revenue. Slot machine gaming may be conducted up to 16 hours per day year-round. The payout rate is required to be no less than 85 percent per facility per day and players must be at least 21 years of age. Slot machine prize payouts of \$600 or more must be checked against a database of persons owing delinquent child or spousal support before being paid and any such delinquency is deducted from the prize payment.

The bill establishes the regulatory framework for all entities involved in the operation of slot machine gaming and regulatory responsibility is placed in the Division of Pari-mutuel Wagering in the Department of Business and Professional Regulation and all regulation of slot machine gaming is preempted to the state. The bill provides for a significant law enforcement presence through the Florida Department of Law Enforcement and local law enforcement agencies.

The bill provides for thoroughbred purses, breeders', stallion and special racing awards.

A Bill Impact Conference is scheduled for December 5, 2005, to assess the fiscal impact of this legislation.

Estimated regulatory costs total \$6,295,798 in Fiscal Year 2005-2006, with annualized recurring costs estimated at \$8,294,387. In addition, the annual cost associated with the prevention of compulsive and addictive gambling totals \$1 million.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government; ensure lower taxes; safeguard individual liberty; promote personal responsibility; empower families; maintain public security:

The bill implements Article X, Section 23 of the Florida Constitution, which authorizes slot machines within certain pari-mutuel facilities located in Broward and Miami-Dade Counties, contingent upon approval by local referendum.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Article X, Section 23 - Slot Machines

Amendment 4 to the State Constitution was approved by the voters at the November 2004 General Election. Passage of Amendment 4 authorized the governing bodies of Broward and Miami-Dade Counties to hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel facilities that have conducted live racing or games in that county during each of the last two calendar years before the effective date of the Constitutional Amendment [2002 and 2003].

Article X, Section 23, Florida Constitution reads as follows:

SECTION 23. Slot machines.--

(a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

(b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

(c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

(d) This amendment shall become effective when approved by vote of the electors of the state.

Both Broward and Miami-Dade Counties held local referendums on whether to authorize slot machines in their respective counties on March 8, 2005. Voters in Broward County approved the measure while voters in Miami-Dade County voted against authorizing slot machines at pari-mutuel facilities in that county. Voters in Miami-Dade County may vote on this issue two years following this initial vote.

There are four pari-mutuel facilities in Broward County: Dania/Summersport Jai Alai, Gulfstream Thoroughbred Park, Hollywood Greyhound Track and Pompano Park Harness that appear to qualify for the addition of slot machines gaming at their facility.

Effect of Proposed Changes

This bill creates a new chapter 551, Florida Statutes, entitled Slot Machines. The Division of Pari-mutuel Wagering [Division] in the Department of Business and Professional Regulation is tasked with the regulatory oversight of slot machine gaming at qualifying pari-mutuel facilities.

The Division is required to implement rules relating to licensing, regulation, tax collection, auditing, investigations, and administrative enforcement of chapter 551. The division, the Department of Law Enforcement [FDLE], and local law enforcement agencies are granted unrestricted access to the slot machine facility at all times and shall require strict compliance with all laws of the state by the licensee. The bill requires the slot machine licensee to provide adequate office space to the division and the FDLE at the slot machine facility for oversight of slot machine operations. The office space must be provided at no cost, and the division is authorized to adopt rules establishing the required configuration, location, and needed electronic and technological requirements.

A slot machine license may only be issued to a licensed pari-mutuel permitholder in a county that has voted to allow slot machine gaming pursuant to Art. X, Section 23 of the State Constitution. Slot machine gaming may only be conducted at the same facility authorized for pari-mutuel wagering, and the slot machine gaming areas must be connected to and contiguous with the operation of the live gaming facility. A slot machine license is not transferable and must be renewed annually.

Existing s. 849.16, F.S., provides that any machine or device is a slot machines or unlawful device under chapter 849 if it is one that is adapted for use in such a way that the machine operates as a result of the insertion of any piece of money, coin, or other object and the user, by reason of any element of chance, may receive or become entitled to receive money, or credit, tokens, etc. which may be exchanged for money or other thing of value, or secure additional chances to use the machine. This bill creates a new definition for slot machines, as follows:

"Slot machine" means any mechanical or electrical contrivance, terminal, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24), or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Notwithstanding this definition, the bill places a restriction on the type of slot machines that may be used by specifying that the machines may accept only "tickets or paper currency or an electronic payment system" and that coins, credit or debit cards, tokens, or similar objects are prohibited. Payouts to the player must be made in the form of tickets that may be exchanged for cash, merchandise, or other items of value. This provision does not preclude the use of electronic credit systems, e.g. player cards, etc., for making wagers and issuing payouts. The bill also prohibits progressive games whereby slot machines in one or more facilities are linked and offer higher payouts.

Slot machine licensees are prohibited from making loans, providing credit, or cashing personal, third-party, corporate, business, or government-issued checks and ATMs are not allowed in the facility.

The bill limits the number of machines that may be operated at a facility to no more than 1,000 per facility, and the payout rate is required to be no less than 85 percent per facility per day. Slot machine gaming may be conducted up to 16 hours per day, 365 days a year.

The bill imposes a tax of 55% on slot machine revenue which is defined to be "the total of all cash and property received by the slot machine licensee from slot machine gaming operations less the amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming." The tax is required to be paid by the 5th day of each month. The division may require that all taxes, fees, or other assessments be paid by electronic funds transfer.

Each slot machine licensee is required to post a \$2 million performance bond for the licensee's first year of operation. Thereafter, the bond may be reviewed for adequacy by the division but in no case can it be reduced below \$2 million.

The annual slot machine license fee is \$3 million which is deposited into the Pari-mutuel Wagering Trust Fund to cover the cost of regulation. The division is required, prior to January 1, 2007, to evaluate the adequacy of the license fee and make a recommendation to the Legislature regarding the optimum level of license fees to properly support regulation.

The bill requires that the facilities-based computer system that the slot machine licensee uses for operational and accounting functions be specifically structured to facilitate regulatory oversight and that the Division and FDLE have complete and continuous access to system. To ensure compliance with this chapter, the system must be designed to allow the Division and the FDLE to monitor at any time and on a real-time basis, the wagering patterns, payouts, tax collection and other operations of the slot machine licensee. The division and FDLE will have the ability to immediately suspend play on a particular slot machine or the entire operation if there is a reasonable suspicion of tampering or other manipulation. The division is granted rule-making authority for the review and approval of the facilities-based computer system to ensure access, security and functionality.

Slot machine licensees are required to maintain permanent daily records of all financial transactions for a period of not less than five years and those records must be available for audit and inspection by the division, the FDLE and other law enforcement agencies during regular business hours. Licensees are required to file monthly reports and must submit an audit of the receipt and distribution of slot machine revenues preformed by an independent CPA within 60 days after completion of the permitholder's pari-mutuel meet.

The bill authorizes the sharing of information among the division, the FDLE, law enforcement agencies having jurisdiction over slot machine gaming or pari-mutuel activities, and any other state or federal law enforcement agency the division or the FDLE deems appropriate.

Qualification of Slot Machine Licensees

The bill establishes as a condition of licensure that the slot machine licensee must continue to be in compliance with chapter 551 as created in this legislation and chapter 550 relating to their pari-mutuel wagering activities, and maintain the pari-mutuel permit and license in good standing.

Chapter 550, F.S., the Florida Pari-mutuel Wagering Act, provides for the regulation of pari-mutuel wagering activities by the Division of Pari-mutuel Wagering in the Department of Business and Professional Regulation. Applicants for a permit to conduct pari-mutuel wagering must undergo background investigations and are disqualified if the Division determines the applicant has been convicted of certain offenses. For these purposes the applicant includes: the permitholder, an employee of the permitholder, a sole proprietor; corporate officer or director, general partner, trustee, member of an unincorporated association permitholder, a joint venturer, the owner of more than 5 percent equity interest, and certain others who are able to control the business of the permitholder.

Section 550.1815, F.S., outlines disqualifying offenses, including: a felony in this state; a felony in any other state which would be a felony if committed in this state; a federal felony; a felony under the laws of another state if related to gambling which would be a felony under Florida law; and bookmaking. Slot machine licensees, by virtue of holding a pari-mutuel permit, may not have been convicted of any disqualifying offense.

The bill requires the licensee to be responsible for maintaining and providing current and accurate information of any changes relating to qualifications for the license. Direct or cumulative changes in ownership or interest of a slot machine gaming license of 5 percent or more must be approved by the division. All changes in ownership or interest of less than 5 percent must be reported to the division within 20 days. An exception is created for reporting ownership of 5 percent or less of a publicly traded corporate owner of a slot machine license.

Occupational Licenses

The bill establishes three types of occupational licenses: general, professional, and business.

"General" occupational licenses include food service, maintenance and similar service and support personnel having access to the slot machine gaming area. The annual license fee for general occupational licenses may not exceed \$50 and must be paid for by the slot machine licensee.

"Professional" occupational licenses include any person who is authorized to manage, oversee, or otherwise control daily operations of a slot machine facility. The annual license fee for a professional occupational license may not exceed \$50.

"Business" occupational licenses include management companies, manufacturers and distributors of slot machines and associated equipment, businesses that sell or provide goods or services associated with slot machine gaming, and any person not an employee of the slot machine licensee that provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment. The annual license fee for a business occupational license may not exceed \$1,000.

The Division may deny, suspend, revoke or refuse to renew any occupational license if the licensee has:

- o Violated ch. 551 or rules of the Division;
- o Been convicted of a felony or misdemeanor related to gambling or bookmaking;
- o Been convicted of certain criminal offenses including a capital felony, any felony in this state or another state, an offense that would be a felony under Florida law involving arson, drug trafficking, racketeering, etc.;
- o Been convicted of a crime involving a lack of good moral character; or
- o Had a gaming license revoked by this state or another state for any gaming-related offense.

For these purposes the term "conviction" includes a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or an entry of a plea of guilty or nolo contendere.

Slot machine occupational licenses may be issued for a three-year period and are not transferable. Each slot machine occupational licensee is required to wear an identification card on their person while in slot machine gaming areas.

The division may deny, revoke, suspend or place conditions on a license if the person or entity has been refused a license or whose license is under suspension or has unpaid fines in another state or jurisdiction.

Fingerprint Requirements

As part of the licensing process individuals and entities applying for an occupational license are required to submit fingerprints for a criminal history records check. Fingerprints are submitted to the FDLE for state processing and to the FBI for national processing.

All fingerprints submitted to the FDLE must be retained by the FDLE and entered into the statewide automated fingerprint identification system [AFIS]. The FDLE is required to check all arrest fingerprints against those retained in AFIS, and any arrest of an occupational licensee will be reported to the division for disciplinary purposes. Each slot machine licensee is required to pay a fee, as established by rule, to cover the cost of fingerprint retention and the ongoing searches.

Since the ongoing searches conducted by the FDLE do not include the FBI database, fingerprints are resubmitted to the FBI every three years after initial licensure and fingerprinting for an updated FBI criminal records check.

The cost of processing fingerprints and conducting the criminal history records check for a general occupational license is required to be borne by the slot machine licensee. The cost of processing fingerprints and conducting the criminal history records check for professional and business occupational licenses is required to be borne by the person being checked.

Facility Security

As a condition of licensure a slot machine licensee is required to implement at least the minimum security requirements as determined by division rule, and any changes to the security plan must be approved by the division. The security plan must include a floor plan, the locations of security cameras and other security equipment that is capable of observing and electronically recording activities in the licensed slot machine facility. The security plan must remain in operation at all times. Security plans of this nature are exempt from public records disclosure pursuant to s. 119.071(4), F.S.

The FDLE and local enforcement agencies have concurrent jurisdiction to conduct investigations of any criminal activity occurring at the slot machine facility and may conduct such investigations in conjunction with the appropriate state attorney. The slot machine facility is required to provide law enforcement with access to the facility and any information and records contained within the facility that are necessary to conduct their investigations.

Slot machine licensees have a common law right to bar any person from the slot machine facility. The bill allows the division to exclude certain persons from a slot machine facility for conduct that would constitute, if the person were a licensee, a violation of chapter 551 or rules of the division.

Integrity of Games

The slot machine licensee must ensure complete and continuous access to the facilities-based computer system that the licensee uses for operational and accounting functions. To ensure compliance with this chapter, the system must be designed to allow the Division and the FDLE to monitor at any time and on a real-time basis, the wagering patterns, payouts, tax collection and other operations of the slot machine licensee. The division and FDLE will have the ability to immediately suspend play on a particular slot machine or the entire operation if there is a reasonable suspicion of tampering or other manipulation. The division is granted rule-making authority for the review and approval of the facilities-based computer system to ensure access, security and functionality.

The slot machine licensee must ensure that each slot machine is protected against manipulation or tampering. The Division and the FDLE have unrestricted access to and right of inspection to any area of the facility where activities related to slot machine gaming are conducted.

Prohibited Relationships and Activities

The bill implements numerous restrictions on relationships and activities of licensees, division personnel, and law enforcement officers.

Manufacturers and distributors of slot machines are prohibited from entering into any contract with a slot machine licensee that provides for any revenue sharing of any kind that is calculated on the basis of a percentage of slot machine revenues. Further, manufacturers, distributors and their employees are prohibited from having any ownership or financial interest in a slot machine license or a business owned by the slot machine licensee.

Division personnel are prohibited from being an officer, director, owner, or employee of any person or entity licensed by the division and are also prohibited from having or holding any interest, direct or indirect, or engaging in any business with any person licensed by the division. Likewise, division personnel and any family member living in the same household are prohibited from playing slot machines at a facility licensed by the division.

Similarly, an occupational licensee or relative living in the same household of the occupational licensee may not wager at any time on a slot machine located at a facility where that person is employed.

No employee of a law enforcement or regulatory agency may be employed by a slot machine licensee or any entity conducting business with the licensee within the designated slot machine gaming area or in any other restricted area that supports slot machine operations. An exception is created for employment that does not involve access to these restricted areas.

Age Restrictions

Section 550.0425, F.S., allows minor children [a person who has not attained the age of 18] to attend pari-mutuel events accompanied by a parent or guardian under conditions and at times determined by each pari-mutuel permitholder. That statute also allows minors to be employed in a pari-mutuel facility except in positions directly involving wagering or alcoholic beverages. This bill prohibits a person under the age of 21 from playing a slot machine, being employed in, or allowed in the slot machine gaming area of a licensed facility. The bill also requires slot machine licensees to post signs within the designated slot machine gaming area advising of this prohibition.

Days and Hours of Operation for Slot Machine Gaming and Pari-mutuel Wagering

This bill allows slot machine gaming to be conducted sixteen hours per day year-round.

This bill specifies that in order to conduct slot machine gaming a licensee must “conduct no fewer than a full schedule of live races or games as defined in s. 550.002(11).”

A “full schedule” is a term coined for the purpose of a pari-mutuel facility conducting intertrack wagering¹ and usually constitutes a lesser number of live races or games than might be conducted under a permitholder’s annual license. For purposes of conducting intertrack wagering, a “full schedule” constitutes 40 live regular performances for

¹ s. 550.002(17) defines intertrack wagering to mean “a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.”

a thoroughbred permit; 100 live regular performances for a harness track; and 100 live evening or matinee performances for a greyhound permit. For jai alai permitholders 100 live evening or matinee performances constitutes a full schedule; however, that number was increased during the 2005 Regular Session to 150 performances for any jai alai permitholder with slot machines and reduced to 40 performances for specified jai alai permitholders whose handle was less than \$4 million during a specified two-year period of time.

This bill allows pari-mutuel permitholders to amend their 2006-2007 pari-mutuel wagering licenses within 60 days of the effective date of this legislation to reflect a different number of operating dates than had previously been requested and granted. The bill also contains an "Act of God" provision which specifies that the number of required live races or games may be reduced by the number of lives races or games which could not be conducted as a direct result of fire, war, hurricanes, or other disaster or event beyond the permitholder's control.

The bill does not impact days or hours of operation for cardrooms.²

The bill requires slot machine licensees to provide equipment in the slot machine gaming area sufficient to allow the observation of and wagering on live, intertrack and simulcast pari-mutuel races and games.

Alcoholic Beverage Sales

Section 565.02(5), F.S., provides for a special alcoholic beverage license for caterers at pari-mutuel facilities enabling the caterer to sell alcoholic beverages without obtaining the more expensive quota liquor license required by s. 565.02(1), F.S. This bill authorizes the issuance of a caterer's license allowing the sale and service of alcoholic beverages on days the facility is open to the public for slot machine gaming. The bill prohibits complimentary or reduced price alcohol from being served to a person playing a slot machine. All alcohol served to a person playing a slot machine must cost at least the same amount as alcoholic beverages served to the general public at a bar in another part of the facility.

Reports of Gambling Winnings to IRS and Payment of State Owed Debt

Generally, gambling winnings are reportable to the Internal Revenue Service [IRS]. The requirements for reporting and withholding of federal income tax on those winnings depend on the type of gambling, the amount of the gambling winnings, and generally the ratio of the winnings to the wager. The Department of the Lottery is required to file Form W-2G with the IRS for each person who wins \$600 or more in a lottery game. Prize winnings of \$1,200 or more from slot machines must be reported to the IRS on Form W-2G.

Before paying a lottery prize of \$600 or more, s. 24.115(4), F.S., requires the Department of the Lottery to check the prize winners name against a database of persons owing delinquent child or spousal support and other state-owed debt, such as reimbursement for overpayments of unemployment compensation benefits, overpayments for food stamps, etc. If the person claiming the prize is found to owe delinquent child or spousal support or other state-owed debt the delinquency is deducted from the prize and any remaining funds are then disbursed to the prize winner. The Department of the Lottery maintains a database of this information received from other state agencies which is updated weekly or monthly, depending upon the submitting agency.

Similar to Department of Lottery operations, this bill requires any slot machine prize of \$600 or more to be checked against a registry of persons owing delinquent child or spousal support. Any such delinquency will be deducted from the prize winnings and the remaining balance, if any, will be paid to the prize winner.

Purchasing and Employment Opportunities

As a condition of licensure, the bill requires slot machine licensees to maintain a written policy for nondiscriminatory employment and for creating opportunities for the employment of Florida residents and for making purchases from Florida vendors and minorities.

Compulsive Gambling

² Section 849.086, F.S., establishes the criteria for operating cardrooms at licensed pari-mutuel facilities. Cardrooms may only be operated at the location where the permitholder conducts pari-mutuel wagering and may only operate between the hours of 12 Noon and 12 Midnight on days the facility is authorized to accept wagers on live pari-mutuel events during its regular authorized meet. Three of the four pari-mutuel facilities in Broward County currently operate cardrooms.

The bill requires slot machine licensees to implement responsible gaming programs and practices and to train their employees on responsible gaming. Slot machine licensees are required to post signs warning patrons of gambling risks, odds of winning, and informing patrons of a telephone helpline available to provide information and referral services.

The bill requires the division to contract for provision of services related to the prevention of compulsive and addictive gambling. This contract must also include an advertising program to encourage responsible gaming practices and publicize the gambling helpline. In addition to the public advertisements, the advertisements must be made within the slot machine gaming areas. The contract for services must include accountability standards that must be met by the private provider. Failure to meet the accountability standards or other material terms of the contract constitutes a breach of contract and grounds for nonrenewal. The division is authorized to consult with the Department of the Lottery in the development and procurement of the program. The program is funded from a \$250,000 fee designated for this purpose and collected annually from each slot machine licensee.

Manufacture, Sale, Possession of Coin-Operated Devices

Section 849.15, F.S., prohibits the manufacture, possession, sale, and transportation of slot machines in Florida. Similarly, federal law [15 U.S.C. ss. 1171-1177 also known as the Johnson Act] prohibits such possession or transportation into a state in violation of that states' law. This bill specifically provides that all shipments of gaming devices, including slot machines or parts thereof, to an eligible facility in any county where slot machine gaming is authorized, are deemed to be legal and exempt from other state and federal prohibitions.

Enforcement and Penalties

A law enforcement officer or a slot machine operator who has probable cause to believe that certain types of theft have occurred at a slot machine facility is authorized to take a person into custody and detain the person in a reasonable manner and for a reasonable time. If the slot machine operator detains a person suspected of such theft the slot machine operator is required to call a law enforcement officer to the scene immediately. This bill allows a law enforcement officer to arrest a person, either on or off the premises and without warrant, upon probable cause.

Any person who resists the efforts of a law enforcement officer or slot machine operator to recover stolen slot machine proceeds and who is subsequently found guilty commits a misdemeanor of the first degree unless the person did not have reason to know that the person seeking to recover the lost proceeds was a law enforcement officer or slot machine operator.

The bill allows the division to exclude certain persons from a slot machine facility for conduct that would constitute, if the person were a licensee, a violation of chapter 551 or rules of the division.

In addition, the bill provides for imposition of the following penalties:

- Revocation or suspension of a slot machine license for the *willful* failure to pay an administrative penalty, pay a required tax, or violation of chapter 551 or rule adopted pursuant thereto;
- Imposition of a \$100,000 administrative penalty in lieu of suspension or revocation of a slot machine license for those specified willful violations;
- 3rd degree felony for theft of slot machine proceeds or property by an employee of the slot machine operator or facility, or by an employee of a person or entity contracted to provide services to the operator or facility;
- 3rd degree felony for physical tampering with a slot machine and other fraudulent offenses; and
- \$10,000 per day administrative penalty for failure to pay tax, knowingly making or causing another to make a false statement in certain documents or unlawful possession of a slot machine.

In addition to the above specified penalties, the bill adds violations of s. 551.109, F.S., as chargeable offenses under the state's Racketeer Influenced and Corrupt Organization [RICO] Act. Section 551.109, F.S., enumerates prohibited acts such as making false statements in required reports, unlawful possession of a slot machine, skimming of slot machine proceeds, and cheating, and establishes administrative, civil and criminal penalties for those violations.

Fiscal

The bill imposes a 55 percent flat tax on slot machine revenue and requires that the taxes are remitted monthly. These tax revenues are deposited into the Pari-mutuel Wagering Trust Fund for immediate transfer to the Educational Enhancement Trust Fund. The bill specifies that these revenues may not be used for recurring expenditures.

Slot machine licensees are required to post a \$2 million bond for the licensee's first year of operation. Annually thereafter the bond may be adjusted upward based on an evaluation by the division of the bond's sufficiency to cover the anticipated state revenues due from the licensee's slot machine operations. The bill specifies, however, that the bond may not be reduced below \$2 million.

Upon initial licensure and annually thereafter, slot machine licensees are required to pay a nonrefundable \$3 million license fee. Prior to January 1, 2007, the division is required to evaluate this fee and make recommendations to the Legislature on the optimum fee necessary to support the regulation of slot machine gaming.

Persons and businesses associated with slot machine gaming are required to obtain an occupational license from the division. These occupational license fees may not exceed \$50 for a general or professional occupational license or \$1,000 for a business occupational license.

All license fees, administrative penalties and other assessment are deposited into the Pari-mutuel Wagering Trust Fund.

The bill funds a compulsive gambling prevention program from revenues received from an annual \$250,000 fee paid by each slot machine facility.

The slot machine definition specifies that these slot machines are not coin-operated amusement machines as defined in s. 212.02(4), F.S. or described in s. 849.161, F.S., and are not subject to the 4 percent sales tax imposed by s. 212.05(1)(h).

The bill appropriates [to be determined] FTE's and \$ [to be determined] in recurring funds and \$ [to be determined] in nonrecurring funds for the division's regulatory responsibilities created by this legislation. In addition, the bill appropriates [to be determined] FTE's and \$ [to be determined] in recurring funds and \$ [to be determined] in nonrecurring funds to FDLE for investigations, intelligence gathering, and other responsibilities created by this legislation. The total initial appropriation is \$ [to be determined] of which \$ [to be determined] is recurring revenue.

To comply with the constitutional requirement that all tax revenue collected from slot machine operations be used to supplement public education funding statewide, this bill exempts slot machine tax revenue from the 7 percent service charge to General Revenue imposed by Section 215.20, F.S.

A bill impact conference has been scheduled for December 2, 2005, to assess the fiscal impact of this legislation on state revenue collections.

Preemption

The bill provides that the state has exclusive authority over the conduct of all wagering occurring at a licensed slot machine facility in the state.

Thoroughbred Purses and Breeders Awards

As a condition of licensure a slot machine licensee applicant must have on file with the division a binding written agreement for payment of purses, and a binding written agreement for payment of breeders', stallion, and special racing awards on live thoroughbred races. The agreement may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct. If an agreement cannot be reached prior to issuance of a slot machine license, or 120 days prior to the scheduled expiration of a slot machine license, either party may request arbitration. If an agreement is not in place within 60 days of the request for arbitration, the matter is immediately submitted to mandatory binding arbitration. No later than 90 days thereafter [or 30 days in the case of a license renewal] the arbitration panel must present a proposed agreement that a majority of the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The agreement will be effective until the parties enter into a new agreement or until the last day of the license or renewal period when the process begins anew.

C. SECTION DIRECTORY:

Section 1. The bill creates a new Chapter 551, Florida Statutes, consisting of sections 551.101, 551.102, 551.103, 551.104, 551.105, 551.106, 551.107, 551.108, 551.109, 551.111, 551.112, 551.113, 551.114, 551.116, 551.117, 551.118, 551.119, 551.121, and 551.122.

Section 551.101, F.S., authorizes slot machine gaming at licensed pari-mutuel facilities in Broward or Miami-Dade Counties existing at the time of adoption of the constitutional amendment if the facility conducted live racing or games during both 2002 and 2003 calendar years and if voters in a countrywide referendum have authorized slot machine gaming in that county.

Section 551.102, F.S., consists of subsections (1) – (12) and provides definitions for: distributor; designated slot machine gaming area; division; eligible facility; manufacturer; progressive system; slot machine; slot machine facility; slot machine license; slot machine licensee; slot machine operator; and, slot machine revenues.

Section 551.103, F.S., consists of subsections (1) – (6) and provides the powers and duties of the division and law enforcement. This section requires the division to adopt rules necessary to implement, administer, and regulate slot machine gaming and those rules must include:

- Procedures for applying for licenses;
- Technical requirements and qualifications for licensees;
- Procedures for verifying, accounting, auditing and collection of tax revenue and fees;
- Procedures for regulating, managing and auditing the operation, financial data, and program information of a licensee, including the facilities-based computer system;
- The ability for the division and FDLE to monitor on a real-time basis the wagering patterns, payouts, tax collection and compliance, including the ability to suspend play immediately on a particular slot machine or the entire system;
- Procedures for provision of a \$2 million performance bond;
- Procedures for maintenance and submission of specified records, including financial and income records;
- A requirement that the payout percentage of slot machines be no less than 85 percent per facility per day;
- Standards for facility security.

This section also:

- Requires the division to conduct investigations;
- Specifies that the FDLE and local law enforcement have concurrent jurisdiction to investigate criminal violations;
- Provides the division, FDLE, and local law enforcement unrestricted access to the slot machine facility and requires strict compliance with the laws by the licensee;
- Authorizes the division to revoke or suspend licenses; and
- Clarifies that the section does not prohibit certain investigations of criminal activities or restrict access to the slot machine facility or to certain information and records.

Section 551.104, F.S., consists of subsections (1) - (9) and provides licensing standards and qualifications for slot machine gaming licensees. As a condition of licensure and to maintain the license in good standing, a slot machine licensee must:

- Maintain compliance with chapter 550 and 551;
- Conduct no fewer than a full-schedule of live races or games;
- Provide current information on changes in ownership;
- Allow unrestricted access and right of inspection to the division and FDLE;
- Ensure that the facilities-based computer system is designed to facilities regulatory oversight;
- Ensure that each slot machine is protected from manipulation or tampering;
- Submit and maintain a security plan;
- Create written policies for purchase and employment;
- Ensure the slot machine payout percentage is not less than 85 percent per facility per day.

In addition, this section provides that:

- Slot machine licenses are not transferable;
- Permanent daily records of slot machine operations be maintained for not less than a five years;
- Monthly reports of slot machine operations must be submitted to the division;
- An annual audit of the receipt and distribution of all slot machine revenue by an independent CPA be provided to the division;
- The division may share information with law enforcement agencies;

- Delinquent child or spousal support must be withheld from slot machine winnings of \$600 or more; and
- No slot machine license or renewal thereof may be issued until the slot machine applicant has a binding written agreement governing the payment of purses and owners', breeders', stallion and special racing awards on live thoroughbred races on file with the division. The agreement requires binding arbitration in certain circumstances.

Section 551.105, F.S., consists of subsections (1) – (3) and provides that slot machine licenses are effective for one year and are renewed annually.

Section 551.106, F.S., consists of subsections (1) – (5) and provides for license fees, tax rate, payment procedures and penalties. This section:

- Establishes a \$3 million annual nonrefundable slot machine license fee to cover the cost of investigations, regulation, and enforcement;
- Imposes a 55 percent flat tax on slot machine revenue. This tax revenue is deposited into the Pari-mutuel Wagering Trust Fund for immediate transfer to the Educational Enhancement Trust Fund in the Department of Education;
- Specifies that slot machine tax revenue may not be used for recurring appropriations;
- Requires slot machine tax taxes to be paid monthly and subjects the slot machine licensee to a \$10,000 administrative penalty for each day the tax payment is delinquent.

Section 551.107, F.S., consists of subsections (1) – (8) and provides the standards, qualifications and fees for three types of occupational licenses: general, professional, and business.

- The fee for general and professional occupational licenses may be no more than \$50 annually and the fee for a business occupational license may be no more than \$1,000 annually.
- Disqualifying offenses include violations of chapter 550 or rules enacted pursuant thereto, a previous license revocation in this state or other jurisdiction for any gaming-related offense, and specified crimes. The term conviction includes adjudication withheld and nolo contendere.
- The bill requires ongoing criminal records checks by the FDLE and every three years by the FBI.
- The cost of the initial fingerprint processing and criminal history check for a general occupational license shall be borne by the slot machine licensee and the cost for professional and business occupational licensees shall be borne by the occupational licensee. Each slot machine facility must also pay a fee to the division to cover the cost of fingerprint retention and the ongoing searches.

Section 551.108, F.S., consists of subsections (1) – (6) and outlines prohibited relationships and activities for division personnel and occupational licensees.

- Division personnel may not be employed by or have any business relationship with anyone licensed by the division.
- Manufacturers and distributors are prohibited from entering into revenue sharing arrangements or having an ownership or financial interest in a slot machine licensee.
- Law enforcement officers are prohibited from moonlighting in any restricted area of a slot machine facility if that officer is an employee of a law enforcement or regulatory agency exercising jurisdiction over the slot machine facility.
- Occupational licensees, division personnel, and any relative of an occupational licensee or division personnel living in the same household, are prohibited from playing slot machines at the facility where that person is employed.

Section 551.109, F.S., consists of subsections (1) – (7) and outlines prohibited acts and penalties. This section provides for imposition of the following penalties:

- 3rd degree felony for theft of slot machine proceeds or property by an employee of the slot machine operator or facility, or by an employee of a person or entity contracted to provide services to the operator or facility; for physical tampering with a slot machine; and other fraudulent offenses;
- \$10,000 per day administrative penalty for intentionally making or causing another to make a false statement in certain documents or unlawful possession of a slot machine.

Section 551.111, F.S., provides that slot machines manufactured, sold, distributed, possessed or operated according to chapter 551 are legal.

Section 551.112, F.S., authorizes the division to exclude certain persons from the facility of a slot machine licensee:

- For conduct that would constitute, if the person were a licensee, a violation of this chapter;

- Any person that has been ejected from a slot machine facility in this state; or
- Any person who has been excluded from a gaming facility in another state by the regulatory agency exercising regulatory jurisdiction in that state.

A slot machine licensee maintains the right to bar any patron from their facility absolutely.

Section 551.113, F.S., consists of subsections (1) – (3) and prohibits a person under the age of 21 from playing slot machines or being employed in a slot machine gaming area and requires the posting of signs concerning the age to play.

Section 551.114, F.S., consists of subsections (1) – (5) and establishes standards for the slot machine gaming area of a slot machine licensee. This section:

- Limits the number of slot machines to 1,000 per facility;
- Requires the display of and wagering on pari-mutuel races or games in the designated slot machine gaming areas;
- Requires posting of warnings, odds of winning, and a telephone hotline;
- Requires slot machine gaming areas to be contiguous and connected to the live gaming facility; and
- Requires the slot machine licensee to provide office space to the division and the FDLE.

Section 551.116, F.S., authorizes slot machine gaming to be conducted daily throughout the year for a maximum of 16 hours per day.

Section 551.117, F.S., provides that a slot machine license may be revoked or suspended for willful violations of chapter 551. In lieu of revocation or suspension, a slot machine licensee may be fined up to \$100,000 for each count or separate offense.

Section 551.118, F.S. consists of subsections (1) – (3) and provides for a compulsive or addictive gambling prevention program.

- Slot machine licensees are required to offer training to their employees on responsible gaming and work with a compulsive or addictive gambling prevention program on ways to recognize problem gaming situations and implement responsible gaming programs and practices.
- The division is required to enter into a contract for provision of services related to the prevention of compulsive and addictive gambling. This contract shall also include an advertising program to promote responsible gaming practices and advertise a gambling telephone help line. These advertisements must also be made inside the designated slot machine gaming areas. The contract must include accountability standards to be met by the private provider.
- The compulsive or addictive gambling program is funded from an annual \$250,000 regulatory fee paid by each slot machine licensee to the division.

Section 551.119, F.S., authorizes a caterer's license allowing the sale of alcoholic beverages on days the facility is open to the public for slot machine game play.

Section 551.121, F.S., consists of subsections (1) – (6) and enumerates prohibited activities and devices in the slot machine gaming facility including a prohibition on the service of complimentary or reduced-cost alcoholic beverages to patrons playing a slot machine.

In addition, this section prohibits certain financial transactions, including:

- Slot machine licensees may not make any loan, provide credit, or advance cash in order to enable a person to play a slot machine;
- ATMs may not be located within the facilities of a slot machine licensee;
- Slot machine licensees may not accept or cash any personal, 3rd party, corporate, business, or government-issued check from any person; and
- Progressive games are prohibited.

This section contains a limitation on the slot machine definition provided in s. 551.102(7), F.S. by specifying that slot machines may accept only "tickets or paper currency or an electronic payment system" for wagering and may only make payouts in the form of tickets. The use of coins, credit or debit cards, tokens, etc. is specifically prohibited; however, an electronic credit system may be used for receiving wagers and making payouts.

Section 551.122, F.S., provides for rulemaking.

Section 2. Amends s. 849.15, F.S., to create an exception to the prohibition of possessing or transporting slot machines in the state. The bill specifically provides that all shipments of gaming devices, including slot machines, or parts thereof, to an eligible facility in any county of the state where slot machine gaming is authorized are deemed to be legal and exempt from state and federal prohibitions.

Section 3. Amends s. 895.02, F.S., the state's Racketeer Influenced and Corrupt Organization [RICO] Act, to classify violations of s. 551.109, F.S., as racketeering activity or constituting an unlawful debt. Section 551.109, F.S., enumerates prohibited acts such as making false statements in required reports, skimming of slot machine proceeds, and cheating, and establishes administrative, civil and criminal penalties for those violations.

Section 4. Preempts all regulation of slot machine gaming to the state.

Section 5. Provides an appropriation.

Section 6. Amends subsection (1) of s. 215.22, F.S., to exempt slot machine revenue from General Revenue service charge.

Section 7. Provides that the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate at this time. A bill impact conference was held December 2, 2005, to evaluate the fiscal impact of this legislation. To finalize revenue estimates, an additional impact conference is scheduled for December 5, 2005.

2. Expenditures:

Regulatory Provision:

The following fiscal-impact information has been estimated for the state cost associated with the regulatory, oversight, and licensing requirements imposed by this legislation. Full-time equivalent positions (FTE) and the impact for Fiscal Year 2005/06 represents partial-year costs.

	FTE	Salary Rate	FY2005/06	FY2006/07
Operating:				
Florida Department of Law Enforcement (FDLE)				
Operating Trust Fund	39	1,619,738	\$2,160,660	\$3,035,981
Department of Business				
& Professional Regulation (DBPR)				
Division of Pari-mutuel Wagering	41	1,637,132	\$1,846,717	\$2,969,985
Office of the General Counsel	2	90,455	900,493	271,858
Central Service Operations	3	82,755	48,844	132,321
Transfer to FDLE	-	-	2,160,660	3,035,981
Total - All Funds	46	1,810,342	\$4,956,714	\$6,410,145
Pari-mutuel Wagering Trust Fund			\$4,007,377	\$6,005,966
Administrative Trust Fund			\$ 949,337	\$ 404,179

Non-Operating:

Department of Business				
& Professional Regulation				
Service Charge to General Revenue		\$ 899,360	\$ 899,360	
Transfer of Fingerprint Fees		226,800	226,800	
Internal Transfer for Direct Costs			1,162,261	1,162,261
Total - Pari-mutuel Wagering Trust Fund			\$2,288,421	\$2,288,421

Total – Department of Business & Professional Regulation	\$7,245,135	\$8,698,566
Total Operating & Non-Operating:		
Pari-mutuel Wagering Trust Fund (DBPR)	<u>\$6,295,798</u>	* <u>\$ 8,294,387</u>
Administrative Trust Fund (DBPR)	949,337	404,179
Operating Trust Fund (FDLE)	<u>2,160,660</u>	<u>3,035,981</u>
Total All Funds	\$9,405,796	\$11,734,547

* Due to internal funds transfers, total trust funds exceed actual disbursement of regulatory fees. Total costs from the Pari-mutuel Wagering Trust Fund represents the total cost of the regulatory program.

Compulsive and Addictive Gambling Provision:

Department of Business & Professional Regulation		
Contractual Services – Compulsive & Addition Prevention		
Pari-mutuel Wagering Trust Fund	\$1,000,000	\$1,000,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate at this time.

2. Expenditures:

Local governments and municipalities where the facilities are located and nearby counties and municipalities may incur increased expenditures to meet additional needs related to law enforcement, transportation, and human services. The expenditures required to meet those needs are not quantifiable at this time.

To assist in defraying the cost of local government impacts, including the effects upon quality of life and community values, costs, and expenses that will be incurred as a result of the pari-mutuel facilities' development and operation of slot machines, Broward County has entered into written agreements with the four pari-mutuel facilities located in the county. In addition to payments to the county for county-wide impacts, the agreements provide for payments to the county that will be distributed to the municipalities where the facilities are located. The payment percentages are as follows per facility: 1) For county-wide impacts, 1.5 percent of the first \$250 million in slot machine revenues and 2.0 percent of revenues above \$250 million; and, 2) For the municipalities where the facilities are located, 1.7 percent of the first \$250 million in slot machine revenue and 2.5 percent above \$250 million. Some adjacent communities, for example the City of Hollywood, have expressed a concern that these agreements do not adequately address their concerns and anticipated required expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The degree to which private individuals or businesses [including existing tourist destinations and attractions, Indian gaming facilities, and cruises-to-nowhere] located nearby the slot machine gaming facilities or located throughout the state will benefit or be harmed economically by the presence of slot machine gaming in Broward County does not appear quantifiable at this time.

D. FISCAL COMMENTS:

In addition to the regulatory costs associated with slot machine operations, the state can expect an increase in costs related to problem gambling, which could lead to a need for increased expenditures in several areas, including law enforcement [including impacts on the courts and prisons], mental health and addiction treatment costs, among others.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The Division of Pari-mutuel Wagering and the Department of Law Enforcement are granted rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Recent Litigation

Subsequent to adjournment of the 2005 Regular Session several pari-mutuel facilities filed suit in Broward County asking the court to declare that the pari-mutuel facilities are entitled to transport, possess, install, and operate slot machines and to permanently enjoin the State Attorney from prosecuting these facilities for doing so in Broward County.³

Declaratory and injunctive relief was granted and the State Attorney was permanently enjoined from initiating criminal or civil action against the plaintiffs for transporting, possessing, installing, or operating slot machines on or after July 1, 2005. Moreover, the judge retained jurisdiction to allow the Broward County Commission to enact rules and regulations to implement the constitutional amendment.

Pursuant to that ruling, the Broward County Board of County Commissioners contracted with Gaming Laboratories International [GLI], an independent gaming device and systems test laboratory, to prepare draft regulations which include a comprehensive set of rules, regulations and internal control procedures and provide an overview of actions and resources required for the County to regulate slots. The Broward County Commission has not acted to implement these regulations at this date.

Indian Gaming

There are currently seven Tribal casinos operating in Florida, including two recently opened Hard Rock casinos in Hollywood and Tampa. The Seminole and Miccosukee Tribes currently operate tribal casinos in Broward, Collier, Glades, Hillsborough, Miami-Dade and Pasco counties where they offer gaming on various card games, bingo, and electronic bingo games. In the past these electronic bingo games have been opposed by the state as unauthorized Class III games but have been classified by the National Indian Gaming Commission, an independent agency within the U. S. Department of the Interior responsible for implementing the Indian Gaming Regulatory Act, as Class II machines.

Indian tribes are sovereign nations and, therefore, free from most federal and state governmental control. State laws, including those regarding gambling activities, do not generally apply to Indians or Indian lands without the consent of Congress. A significant expansion of Indian gambling was realized following passage of the Indian Gaming Regulatory Act⁴ [IGRA] by Congress in 1988. IGRA provides that a tribe may only be engaged in those same type gambling activities as are authorized by law in that state. For example, if a state authorizes penny-ante poker, the tribes can, likewise, conduct poker; if the state specifically prohibits wagering on all card games, the tribe cannot conduct wagering on card games.

IGRA identifies three classes of gambling on Indian lands:

Class I includes social games and traditional and ceremonial games which may be played for prizes of minimal value. This type of gambling is under the exclusive jurisdiction of the tribes.

³ *Hartman & Tyner, Inc. et al. v. Satz*, Case No. 05-07900 (13)

⁴ 25 U.S.C., chapter 29

Class II includes bingo, pull tabs, and games similar to bingo, plus non-banking card games unless they are otherwise prohibited by state law. Class II gaming does not include any banking card games, such as baccarat or blackjack, or electronic or electromechanical facsimiles of any games of chance or slot machines of any kind. Class II games may, however, utilize "electronic, computer or other technologic aids." Class II gambling is subject to the provisions of IGRA and oversight by the National Indian Gaming Commission.

Class III includes all other types of gambling including pari-mutuel wagering on horses, dogs and jai alai, house-banked card games, casino games such as roulette, craps and keno, and slot machines. Electronic games of chance, such as video poker, are also considered Class III games.

IGRA provides that a tribe may not legally conduct Class III gambling until it reaches agreement with a state under a state-tribal compact and provides procedures for the tribe to pursue should an agreement not be reached. Those procedures include action in a U.S. District Court, mediation, and involvement by the Secretary of the Interior. The efficacy of this remedy for the tribes is questionable because the U. S. Supreme Court held in 1996 that the 11th Amendment provides the state sovereign immunity against suit by the tribe.⁵ In that litigation the State of Florida and the Seminole Tribe of Florida were unable to reach agreement on a requested state-tribal compact resulting in prolonged litigation and the Secretary of the Interior contemplating the implementation of rules allowing the Seminole Tribe to proceed.

In light of passage of Art. X, Sec. 23, both the Miccosukee Tribe of Florida⁶ and the Seminole Tribe of Florida⁷ have submitted formal requests to the Governor to begin compact negotiations for Class III gaming.

Debt Service on Bonds

By the terms of Amendment 4, any state revenue from the taxation of slot machines must be used for supplementing public education funding statewide. Revenues from the taxation of slot machine revenue may be required to be deposited in the Educational Enhancement Trust Fund to be available first for debt service payments on bonds issued under the 1997 School Capital Outlay Bond Program, the Classrooms First Program, and the Class Size Reduction Lottery Revenue Bond Program pursuant to ss. 1013.70(1), 1013.68(4), and 1013.737(3), F.S., respectively. All of those subsections authorize the establishment of covenants in connection with the issuance of bonds that provide that any additional funds received by the state from new or enhanced lottery programs, video gaming, or other similar activities will first be available for payments relating to the bonds, prior to use for any other purpose. The Resolutions of the Division of Bond Finance of the State Board of Administration which appear in the Official Statements related to the issuance of bonds under those programs contain covenants with the registered owners that any net revenues received by the state from video gaming or other similar activities, regardless of what entity operates these activities, will first be available for payment of debt service on the bonds or other payments required pursuant to the Resolution prior to use for any other purpose. However, the applicability of these covenants to tax revenue derived from slot machine gaming in pari-mutuel facilities may be called into question, since Article VII, Section 11(d), of the Florida Constitution provides that "revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues." [Emphasis supplied.]

Florida School Board Association Agreement

On October 22, 2004, the Florida School Boards Association entered into an agreement with the seven pari-mutuel facilities in Broward and Miami-Dade Counties wherein the pari-mutuel facilities agreed to pay to the Association 30 percent of the gross slot machine revenue generated at their respective facilities annually. The agreement specifies that the payments will commence upon passage of an authorizing referendum in the county of operation and upon the initial operation of slot machines by the facility and will continue until such time as the Legislature enacts legislation providing for the collection of taxes or fees on slot machine operations.

The agreement further provides that in the event the cumulative amount of tax imposed by the Legislature is less than 30 percent of the gross slot revenue generated by the facility, each facility is required to pay the amount of the difference between the two.

⁵ See *Seminole Tribe of Florida v. State of Florida*, 517 U.S. 44 (1996)

⁶ See letter from Dexter Lehtinen, Tribe Counsel, dated November 4, 2004

⁷ See letter from Mitchell Cypress, Chairman of Tribal Council, dated March 22, 2005

Revenues collected pursuant to this agreement are required to be distributed to each school board in the state in accordance with the respective percentage allocations of general revenue funds each school district is entitled pursuant to the Florida Education Finance Plan.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled

2 An act relating to slot machine gaming; creating ch. 551,
3 F.S.; implementing s. 23, Art. X of the State
4 Constitution; authorizing slot machines and slot machine
5 gaming within certain pari-mutuel facilities located in
6 Miami-Dade and Broward Counties upon approval by a local
7 referendum; providing definitions; providing powers and
8 duties of the Division of Pari-mutuel Wagering of the
9 Department of Business and Professional Regulation, the
10 Department of Law Enforcement, and local law enforcement
11 agencies; providing for licensure to conduct slot machine
12 gaming; providing licensing conditions on holders of
13 thoroughbred pari-mutuel wagering permits; providing for
14 slot machine licensure renewal; providing for a license
15 fee and tax rate; providing for payment procedures;
16 providing penalties; requiring slot machine occupational
17 licenses and application fees; providing penalties;
18 prohibiting certain relationships; prohibiting certain
19 acts and providing penalties; providing an exception to
20 prohibitions relating to slot machines; providing for the
21 exclusion of certain persons from facilities; prohibiting
22 persons under 21 years of age from playing slot machines;
23 providing requirements for slot machine gaming areas;
24 providing for days and hours of operation; providing
25 penalties; providing a compulsive or addictive gambling
26 prevention program; providing for funding; providing for a
27 caterer's license; specifying prohibited activities and
28 devices; prohibiting automated teller machines on the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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property of a slot machine licensee; providing for rulemaking; amending s. 849.15, F.S.; providing for transportation of certain gaming devices in accordance with federal law; amending s. 895.02, F.S.; providing that specified violations related to slot machine gaming constitute racketeering activity; providing that certain debt incurred in violation of specified provisions relating to slot machine gaming constitutes unlawful debt; providing for preemption; authorizing additional positions and providing appropriations; amending s. 215.22, F.S.; exempting taxes imposed on slot machine revenues from specified service charges; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 551, Florida Statutes, consisting of sections 551.101, 551.102, 551.103, 551.104, 551.105, 551.106, 551.107, 551.108, 551.109, 551.111, 551.112, 551.113, 551.114, 551.116, 551.117, 551.118, 551.119, 551.121, and 551.122, is created to read:

CHAPTER 551

SLOT MACHINES

551.101 Slot machine gaming authorized.--Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines

57 and conduct slot machine gaming at the location where the pari-
58 mutuel permitholder is authorized to conduct pari-mutuel
59 wagering activities pursuant to such permitholder's valid pari-
60 mutuel permit provided that a majority of voters in a countywide
61 referendum have approved the possession of slot machines at such
62 facility in the respective county. Notwithstanding any other
63 provision of law, it is not a crime for a person to participate
64 in slot machine gaming at a pari-mutuel facility licensed to
65 possess and conduct slot machine gaming or to participate in
66 slot machine gaming described in this chapter.

67 551.102 Definitions.--As used in this chapter, the term:

68 (1) "Distributor" means any person who sells, leases, or
69 offers or otherwise provides, distributes, or services any slot
70 machine or associated equipment for use or play of slot machines
71 in this state. A manufacturer may be a distributor within the
72 state.

73 (2) "Designated slot machine gaming area" means the area
74 or areas of a facility of a slot machine licensee in which slot
75 machine gaming may be conducted in accordance with the
76 provisions of this chapter.

77 (3) "Division" means the Division of Pari-mutuel Wagering
78 of the Department of Business and Professional Regulation.

79 (4) "Eligible facility" means any licensed pari-mutuel
80 facility located in Miami-Dade County or Broward County existing
81 at the time of adoption of s. 23, Art. X of the State
82 Constitution that has conducted live racing or games during
83 calendar years 2002 and 2003 and has been approved by a majority
84 of voters in a countywide referendum to have slot machines at

85 such facility in the respective county.

86 (5) "Manufacturer" means any person who manufactures,
87 builds, rebuilds, fabricates, assembles, produces, programs,
88 designs, or otherwise makes modifications to any slot machine or
89 associated equipment for use or play of slot machines in this
90 state for gaming purposes. A manufacturer may be a distributor
91 within the state.

92 (6) "Progressive system" means a computerized system
93 linking slot machines in one or more licensed facilities within
94 this state and offering one or more common progressive payouts
95 based on the amounts wagered.

96 (7) "Slot machine" means any mechanical or electrical
97 contrivance, terminal, machine, or other device that, upon
98 insertion of a coin, bill, ticket, token, or similar object or
99 upon payment of any consideration whatsoever, including the use
100 of any electronic payment system except a credit card or debit
101 card, is available to play or operate, the play or operation of
102 which, whether by reason of skill or application of the element
103 of chance or both, may deliver or entitle the person or persons
104 playing or operating the contrivance, terminal, machine, or
105 other device to receive cash, billets, tickets, tokens, or
106 electronic credits to be exchanged for cash or to receive
107 merchandise or anything of value whatsoever, whether the payoff
108 is made automatically from the machine or manually. The term
109 includes associated equipment necessary to conduct the operation
110 of the contrivance, terminal, machine, or other device. Slot
111 machines may use spinning reels, video displays, or both. A slot
112 machine is not a "coin-operated amusement machine" as defined in

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113 s. 212.02(24) or an amusement game or machine as described in s.
114 849.161, and slot machines are not subject to the tax imposed by
115 s. 212.05(1)(h).

116 (8) "Slot machine facility" means a facility at which slot
117 machines as defined in this chapter are lawfully offered for
118 play.

119 (9) "Slot machine license" means a license issued by the
120 division authorizing a pari-mutuel permitholder to place and
121 operate slot machines as provided by s. 23, Art. X of the State
122 Constitution, the provisions of this chapter, and division
123 rules.

124 (10) "Slot machine licensee" means a pari-mutuel
125 permitholder who holds a license issued by the division pursuant
126 to this chapter that authorizes such person to possess a slot
127 machine within facilities specified in s. 23, Art. X of the
128 State Constitution and allows slot machine gaming.

129 (11) "Slot machine operator" means a person employed or
130 contracted by the owner of a licensed facility to conduct slot
131 machine gaming at that licensed facility.

132 (12) "Slot machine revenues" means the total of all cash
133 and property received by the slot machine licensee from the
134 operation of slot machines less the amount of cash, cash
135 equivalents, credits, and prizes paid to winners of slot machine
136 gaming.

137 551.103 Powers and duties of the division and law
138 enforcement.--

139 (1) The division shall adopt, pursuant to the provisions
140 of ss. 120.536(1) and 120.54, all rules necessary to implement,

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141 administer, and regulate slot machine gaming as authorized in
 142 this chapter. Such rules must include:

143 (a) Procedures for applying for a slot machine license and
 144 renewal of a slot machine license.

145 (b) Technical requirements and the qualifications
 146 contained in this chapter that are necessary to receive a slot
 147 machine license or slot machine occupational license.

148 (c) Procedures relating to slot machine revenues,
 149 including verifying and accounting for such revenues, auditing,
 150 and collecting taxes and fees consistent with this chapter.

151 (d) Procedures for regulating, managing, and auditing the
 152 operation, financial data, and program information relating to
 153 slot machine gaming that allow the division and the Department
 154 of Law Enforcement to audit the operation, financial data, and
 155 program information of a slot machine licensee, as required by
 156 the division or the Department of Law Enforcement, and provide
 157 the division and the Department of Law Enforcement with the
 158 ability to monitor, at any time on a real-time basis, wagering
 159 patterns, payouts, tax collection, and compliance with any rules
 160 adopted by the division for the regulation and control of slot
 161 machines operated under this chapter. Such continuous and
 162 complete access, at any time on a real-time basis, shall include
 163 the ability of either the division or the Department of Law
 164 Enforcement to suspend play immediately on particular slot
 165 machines if monitoring of the facilities-based computer system
 166 indicates possible tampering or manipulation of those slot
 167 machines or the ability to suspend play immediately of the
 168 entire operation if the tampering or manipulation is of the

169 computer system itself. The division shall notify the Department
170 of Law Enforcement or the Department of Law Enforcement shall
171 notify the division, as appropriate, whenever there is a
172 suspension of play under this paragraph. The division and the
173 Department of Law Enforcement shall exchange such information
174 necessary for and cooperate in the investigation of the
175 circumstances requiring suspension of play under this paragraph.

176 (e) Procedures for requiring each licensee at his or her
177 own cost and expense to supply the division with a bond having
178 the penal sum of \$2 million payable to the Governor and his or
179 her successors in office for the licensee's first year of slot
180 machine operations. Annually thereafter, the licensee shall file
181 a bond having a penal sum that is determined each year by the
182 division pursuant to rules adopted by the division and that
183 approximates the anticipated state revenues from the licensee's
184 slot machine operation; however, the bond may not in any case be
185 less than \$2 million. Any bond shall be issued by a surety or
186 sureties approved by the division and the Chief Financial
187 Officer, conditioned to faithfully make the payments to the
188 Chief Financial Officer in his or her capacity as treasurer of
189 the division. The licensee shall be required to keep its books
190 and records and make reports as provided in this chapter and to
191 conduct its slot machine operations in conformity with this
192 chapter and all other provisions of law. Such bond shall be
193 separate and distinct from the bond required in s. 550.125.

194 (f) Procedures for requiring licensees to maintain
195 specified records and submit any data, information, record, or
196 report, including financial and income records, required by this

chapter or determined by the division to be necessary to the proper implementation and enforcement of this chapter.

(g) A requirement that the payout percentage of the slot machines be no less than 85 percent per facility per day.

(h) Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.

(2) The division shall conduct such investigations necessary to fulfill its responsibilities under the provisions of this chapter.

(3) The Department of Law Enforcement and local law enforcement agencies shall have concurrent jurisdiction to investigate criminal violations of this chapter and may investigate any other criminal violation of law occurring at the facilities of a slot machine licensee, and such investigations may be conducted in conjunction with the appropriate state attorney.

(4)(a) The division, the Department of Law Enforcement, and local law enforcement agencies shall have unrestricted access to the slot machine licensee's facility at all times and shall require of each slot machine licensee strict compliance with the laws of this state relating to the transaction of such business. The division, the Department of Law Enforcement, and local law enforcement agencies may:

1. Inspect and examine premises where slot machines are offered for play.

2. Inspect slot machines and related equipment and supplies.

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225 (b) In addition, the division may:
 226 1. Collect taxes, assessments, fees, and penalties.
 227 2. Deny, revoke, suspend, or place conditions on the
 228 license of a person who violates any provision of this chapter
 229 or rule adopted pursuant thereto.
 230 (5) The division shall revoke or suspend the license of
 231 any person who is no longer qualified or who is found, after
 232 receiving a license, to have been unqualified at the time of
 233 application for the license.
 234 (6) This section does not:
 235 (a) Prohibit the Department of Law Enforcement or any law
 236 enforcement authority whose jurisdiction includes a licensed
 237 facility from conducting investigations of criminal activities
 238 occurring at the facility of the slot machine licensee;
 239 (b) Restrict access to the slot machine licensee's
 240 facility by the Department of Law Enforcement or any local law
 241 enforcement authority whose jurisdiction includes the slot
 242 machine licensee's facility; or
 243 (c) Restrict access by the Department of Law Enforcement
 244 or local law enforcement authorities to information and records
 245 necessary to the investigation of criminal activity that are
 246 contained within the slot machine licensee's facility.
 247 551.104 License to conduct slot machine gaming.--
 248 (1) Upon application and a finding by the division after
 249 investigation that the application is complete and the applicant
 250 is qualified and payment of the initial license fee, the
 251 division may issue a license to conduct slot machine gaming in
 252 the designated slot machine gaming area of the eligible

253 facility. Once licensed, slot machine gaming may be conducted
254 subject to the requirements of this chapter and rules adopted
255 pursuant thereto.

256 (2) An application may be approved by the division only
257 after the voters of the county where the applicant's facility is
258 located have authorized by referendum slot machines within pari-
259 mutuel facilities in that county as specified in s. 23, Art. X
260 of the State Constitution.

261 (3) A slot machine license may be issued only to a
262 licensed pari-mutuel permitholder, and slot machine gaming may
263 be conducted only at the same facility at which the permitholder
264 is authorized under its valid pari-mutuel wagering permit to
265 conduct pari-mutuel wagering activities.

266 (4) As a condition of licensure and to maintain continued
267 authority for the conduct of slot machine gaming, the slot
268 machine licensee shall:

269 (a) Continue to be in compliance with this chapter.

270 (b) Continue to be in compliance with chapter 550, where
271 applicable, and maintain the pari-mutuel permit and license in
272 good standing pursuant to the provisions of chapter 550.
273 Notwithstanding any contrary provision of law and in order to
274 expedite the operation of slot machines at eligible facilities,
275 any eligible facility shall be entitled within 60 days after the
276 effective date of this act to amend its 2006-2007 pari-mutuel
277 wagering operating license issued by the division under ss.
278 550.0115 and 550.01215. The division shall issue a new license
279 to the eligible facility to effectuate any approved change.

280 (c) Conduct no fewer than a full schedule of live racing

281 or games as defined in s. 550.002(11). A permitholder's
282 responsibility to conduct such number of live races or games
283 shall be reduced by the number of races or games that could not
284 be conducted due to the direct result of fire, war, hurricane,
285 or other disaster or event beyond the control of the
286 permitholder.

287 (d) Upon approval of any changes relating to the pari-
288 mutuel permit by the division, be responsible for providing
289 appropriate current and accurate documentation on a timely basis
290 to the division in order to continue the slot machine license in
291 good standing. Changes in ownership or interest of a slot
292 machine license of 5 percent or more of the stock or other
293 evidence of ownership or equity in the slot machine license or
294 any parent corporation or other business entity that in any way
295 owns or controls the slot machine license shall be approved by
296 the division prior to such change, unless the owner is an
297 existing holder of that license who was previously approved by
298 the division. Changes in ownership or interest of a slot machine
299 license of less than 5 percent, unless such change results in a
300 cumulative total of 5 percent or more, shall be reported to the
301 division within 20 days after the change. The division may then
302 conduct an investigation to ensure that the license is properly
303 updated to show the change in ownership or interest. No
304 reporting is required if the person is holding 5 percent or less
305 equity or securities of a corporate owner of the slot machine
306 licensee that has its securities registered pursuant to s. 12 of
307 the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and
308 if such corporation or entity files with the United States

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309 Securities and Exchange Commission the reports required by s. 13
310 of that act or if the securities of the corporation or entity
311 are regularly traded on an established securities market in the
312 United States. A change in ownership or interest of less than 5
313 percent which results in a cumulative ownership or interest of 5
314 percent or more shall be approved by the division prior to such
315 change unless the owner is an existing holder of the license who
316 was previously approved by the division.

317 (e) Allow the division and the Department of Law
318 Enforcement unrestricted access to and right of inspection of
319 facilities of a slot machine licensee in which any activity
320 relative to the conduct of slot machine gaming is conducted.

321 (f) Ensure that the facilities-based computer system that
322 the licensee will use for operational and accounting functions
323 of the slot machine facility is specifically structured to
324 facilitate regulatory oversight. The facilities-based computer
325 system shall be designed to provide the division and the
326 Department of Law Enforcement with the ability to monitor, at
327 any time on a real-time basis, the wagering patterns, payouts,
328 tax collection, and such other operations as necessary to
329 determine whether the facility is in compliance with statutory
330 provisions and rules adopted by the division for the regulation
331 and control of slot machine gaming. The division and the
332 Department of Law Enforcement shall have complete and continuous
333 access to this system. Such access shall include the ability of
334 either the division or the Department of Law Enforcement to
335 suspend play immediately on particular slot machines if
336 monitoring of the system indicates possible tampering or

337 manipulation of those slot machines or the ability to suspend
338 play immediately of the entire operation if the tampering or
339 manipulation is of the computer system itself. The computer
340 system shall be reviewed and approved by the division to ensure
341 necessary access, security, and functionality. The division may
342 adopt rules to provide for the approval process.

343 (g) Ensure that each slot machine is protected from
344 manipulation or tampering to affect the random probabilities of
345 winning plays. The division or the Department of Law Enforcement
346 shall have the authority to suspend play upon reasonable
347 suspicion of any manipulation or tampering. When play has been
348 suspended on any slot machine, the division or the Department of
349 Law Enforcement may examine any slot machine to determine
350 whether the machine has been tampered with or manipulated and
351 whether the machine should be returned to operation.

352 (h) Submit a security plan, including the facilities'
353 floor plan, the locations of security cameras, and a listing of
354 all security equipment that is capable of observing and
355 electronically recording activities being conducted in the
356 facilities of the slot machine licensee. The security plan must
357 meet the minimum security requirements as determined by the
358 division under s. 551.103(1)(h) and be implemented prior to
359 operation of slot machine gaming. The slot machine licensee's
360 facilities must adhere to the security plan at all times. Any
361 changes to the security plan must be submitted by the licensee
362 to the division prior to implementation. The division shall
363 furnish copies of the security plan and changes in the plan to
364 the Department of Law Enforcement.

365 (i) Create and file with the division a written policy
366 for:

367 1. Creating opportunities to purchase from vendors in this
368 state, including minority vendors.

369 2. Creating opportunities for employment of residents of
370 this state, including minority residents.

371 3. Ensuring that opportunities for employment are offered
372 on an equal, nondiscriminatory basis.

373 (j) Ensure that the payout percentage of the slot machines
374 is no less than 85 percent per facility per day.

375 (5) A slot machine license is not transferable.

376 (6) A slot machine licensee shall keep and maintain
377 permanent daily records of its slot machine operation and shall
378 maintain such records for a period of not less than 5 years.
379 These records must include all financial transactions and
380 contain sufficient detail to determine compliance with the
381 requirements of this chapter. All records shall be available for
382 audit and inspection by the division, the Department of Law
383 Enforcement, or other law enforcement agencies during the
384 licensee's regular business hours.

385 (7) A slot machine licensee shall file with the division a
386 monthly report containing the required records of such slot
387 machine operation. The required reports shall be submitted on
388 forms prescribed by the division and shall be due at the same
389 time as the monthly pari-mutuel reports are due to the division,
390 and the reports shall be deemed public records once filed.

391 (8) A slot machine licensee shall file with the division
392 an audit of the receipt and distribution of all slot machine

393 revenues provided by an independent certified public accountant
394 verifying compliance with all financial and auditing provisions
395 of this chapter and the associated rules adopted under this
396 chapter. The audit must include verification of compliance with
397 all statutes and rules regarding all required records of slot
398 machine operations. Such audit shall be filed within 60 days
399 after the completion of the permitholder's pari-mutuel meet.

400 (9) The division may share any information with the
401 Department of Law Enforcement, any other law enforcement agency
402 having jurisdiction over slot machine gaming or pari-mutuel
403 activities, or any other state or federal law enforcement agency
404 the division or the Department of Law Enforcement deems
405 appropriate. Any law enforcement agency having jurisdiction over
406 slot machine gaming or pari-mutuel activities may share any
407 information obtained or developed by it with the division.

408 (10) (a) It is the responsibility of the appropriate state
409 agency and of the judicial branch to identify to the division,
410 in the form and format prescribed by the division, persons owing
411 past due child support collected through a court, including
412 spousal support or alimony for the spouse or former spouse of
413 the obligor if the child support obligation is being enforced by
414 the Department of Revenue. Any slot machine prize of \$600 or
415 more to any person having such an outstanding obligation shall
416 be forwarded by the slot machine licensee to the division for
417 distribution to the agency claiming that past due child support
418 is owed. If a balance of prize amount remains after payment of
419 past due child support, the division shall distribute the
420 balance to the prize winner after deduction of the debt.

421 (b) It is the responsibility of the division to identify
422 to slot machine licensees those persons identified under
423 paragraph (a) as having such outstanding obligations. Slot
424 machine licensees must implement payout procedures to ensure the
425 requirements of this subsection are met.

426 (c) The division may adopt rules pursuant to ss.
427 120.536(1) and 120.54 to implement the provisions of this
428 subsection.

429 (11)(a) No slot machine license or renewal thereof shall
430 be issued to an applicant holding a permit under chapter 550 to
431 conduct pari-mutuel wagering meets of thoroughbred racing unless
432 the applicant has on file with the division a binding written
433 agreement between the applicant and the Florida Horsemen's
434 Benevolent and Protective Association, Inc., governing the
435 payment of purses on live thoroughbred races conducted at the
436 licensee's pari-mutuel facility. In addition, no slot machine
437 license or renewal thereof shall be issued to such an applicant
438 unless the applicant has on file with the division a binding
439 written agreement between the applicant and the Florida
440 Thoroughbred Breeders' Association, Inc., governing the payment
441 of breeders', stallion, and special racing awards on live
442 thoroughbred races conducted at the licensee's pari-mutuel
443 facility. The agreement governing purses and the agreement
444 governing awards may direct the payment of such purses and
445 awards from revenues generated by any wagering or gaming the
446 applicant is authorized to conduct under Florida law. All purses
447 and awards shall be subject to the terms of chapter 550. All
448 sums for breeders', stallion, and special racing awards shall be

449 remitted monthly to the Florida Thoroughbred Breeders'
450 Association, Inc., for the payment of awards subject to the
451 administrative fee authorized in s. 550.2625(3).

452 (b) The division shall suspend a slot machine license if
453 one or more of the agreements required under paragraph (a) are
454 terminated or otherwise cease to operate or if the division
455 determines that the licensee is materially failing to comply
456 with the terms of such an agreement. Any such suspension shall
457 take place in accordance with chapter 120.

458 (c)1. If an agreement required under paragraph (a) cannot
459 be reached prior to the initial issuance of the slot machine
460 license, either party may request arbitration or, in the case of
461 a renewal, if an agreement required under paragraph (a) is not
462 in place 120 days prior to the scheduled expiration date of the
463 slot machine license, the applicant shall immediately ask the
464 American Arbitration Association to furnish a list of 11
465 arbitrators, each of whom shall have at least 5 years of
466 commercial arbitration experience and no financial interest in
467 or prior relationship with any of the parties or their
468 affiliated or related entities or principals. Each required
469 party to the agreement shall select a single arbitrator from the
470 list provided by the American Arbitration Association within 10
471 days of receipt, and the individuals so selected shall choose
472 one additional arbitrator from the list within the next 10 days.

473 2. If an agreement required under paragraph (a) is not in
474 place 60 days after the request under subparagraph 1. in the
475 case of an initial slot machine license or, in the case of a
476 renewal, 60 days prior to the scheduled expiration date of the

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477 slot machine license, the matter shall be immediately submitted
478 to mandatory binding arbitration to resolve the disagreement
479 between the parties. The three arbitrators selected pursuant to
480 subparagraph 1. shall constitute the panel that shall arbitrate
481 the dispute between the parties pursuant to the American
482 Arbitration Association Commercial Arbitration Rules and chapter
483 682.

484 3. At the conclusion of the proceedings, which shall be no
485 later than 90 days after the request under subparagraph 1. in
486 the case of an initial slot machine license or, in the case of a
487 renewal, 30 days prior to the scheduled expiration date of the
488 slot machine license, the arbitration panel shall present to the
489 parties a proposed agreement that the majority of the panel
490 believes equitably balances the rights, interests, obligations,
491 and reasonable expectations of the parties. The parties shall
492 immediately enter into such agreement, which shall satisfy the
493 requirements of paragraph (a) and permit issuance of the pending
494 annual slot machine license or renewal. The agreement produced
495 by the arbitration panel under this subparagraph shall be
496 effective until the last day of the license or renewal period or
497 until the parties enter into a different agreement. Each party
498 shall pay its respective costs of arbitration and shall pay one-
499 half of the costs of the arbitration panel, unless the parties
500 otherwise agree. If the agreement produced by the arbitration
501 panel under this subparagraph remains in place 120 days prior to
502 the scheduled issuance of the next annual license renewal, then
503 the arbitration process established in this paragraph will begin
504 again.

505 4. In the event that neither of the agreements required
506 under paragraph (a) are in place by the deadlines established in
507 this paragraph, arbitration regarding each agreement will
508 proceed independently, with separate lists of arbitrators,
509 arbitration panels, arbitration proceedings, and resulting
510 agreements.

511 5. With respect to the agreement required under paragraph
512 (a) governing the payment of purses, the arbitration and
513 resulting agreement called for under this paragraph shall be
514 limited to the payment of purses from slot machine revenues
515 only.

516 (d) If any provision of this subsection or its application
517 to any person or circumstance is held invalid, the invalidity
518 does not affect other provisions or applications of this
519 subsection or chapter which can be given effect without the
520 invalid provision or application, and to this end the provisions
521 of this subsection are severable.

522 551.105 Slot machine license renewal.--

523 (1) Slot machine licenses shall be effective for 1 year
524 after issuance and shall be renewed annually. The application
525 for renewal must contain all revisions to the information
526 submitted in the prior year's application that are necessary to
527 maintain such information as both accurate and current.

528 (2) The applicant for renewal shall attest that any
529 information changes do not affect the applicant's qualifications
530 for license renewal.

531 (3) Upon determination by the division that the
532 application for renewal is complete and qualifications have been

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533 met, including payment of the renewal fee, the slot machine
534 license shall be renewed annually.

535 551.106 License fee; tax rate; penalties.--

536 (1) LICENSE FEE.--

537 (a) Upon submission of the initial application for a slot
538 machine license and annually thereafter upon submission of an
539 application for renewal of the slot machine license, the
540 licensee must pay to the division a nonrefundable license fee of
541 \$3 million. The license fee shall be deposited into the Pari-
542 mutuel Wagering Trust Fund of the Department of Business and
543 Professional Regulation to be used by the division and the
544 Department of Law Enforcement for investigations, regulation of
545 slot machine gaming, and enforcement of slot machine gaming
546 provisions under this chapter. These payments shall be accounted
547 for separately from taxes or fees paid pursuant to the
548 provisions of chapter 550.

549 (b) Prior to January 1, 2007, the division shall evaluate
550 the license fee and shall make recommendations to the President
551 of the Senate and the Speaker of the House of Representatives
552 regarding the optimum level of slot machine license fees in
553 order to adequately support the slot machine regulatory program.

554 (2) TAX ON SLOT MACHINE REVENUES.--

555 (a) The tax rate on slot machine revenues at each facility
556 shall be 55 percent.

557 (b) The slot machine revenue tax imposed by this section
558 shall be paid to the division for deposit into the Pari-mutuel
559 Wagering Trust Fund for immediate transfer by the Chief
560 Financial Officer for deposit into the Educational Enhancement

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561 Trust Fund of the Department of Education. Any interest earnings
562 on the tax revenues shall also be transferred to the Educational
563 Enhancement Trust Fund.

564 (c) Funds transferred to the Educational Enhancement Trust
565 Fund under paragraph (b) shall be used to supplement public
566 education funding statewide and shall not be used for recurring
567 appropriations.

568 (3) PAYMENT PROCEDURES.--Such payment shall be remitted to
569 the division by the 5th day of each calendar month for taxes
570 imposed on the preceding month's slot machine revenues. The slot
571 machine licensee shall file a report under oath by the 5th day
572 of each calendar month for all taxes remitted that month, which
573 report must show all slot machine activities for the preceding
574 calendar month and such other revenue information as may be
575 required by the division.

576 (4) FAILURE TO PAY TAX; PENALTIES.--A slot machine
577 licensee who fails to make tax payments as required under this
578 section is subject to an administrative penalty of up to \$10,000
579 for each day the tax payment is not remitted. All administrative
580 penalties imposed and collected shall be deposited into the
581 Pari-mutuel Wagering Trust Fund of the Department of Business
582 and Professional Regulation. If any slot machine licensee fails
583 to pay penalties imposed by order of the division under this
584 subsection, the division may suspend, revoke, or refuse to renew
585 the license of the slot machine licensee.

586 (5) SUBMISSION OF FUNDS.--The division may require slot
587 machine licensees to remit taxes, fees, fines, and assessments
588 by electronic funds transfer.

589 551.107 Slot machine occupational license; findings;
590 application; fee.--

591 (1) The Legislature finds that individuals and entities
592 that are licensed under this section require heightened state
593 scrutiny, including the submission by the individual licensees
594 or persons associated with the entities described in this
595 chapter of fingerprints for a criminal history record check.

596 (2) (a) The following slot machine occupational licenses
597 shall be issued to persons or entities that, by virtue of the
598 position they hold, might be granted access to slot machine
599 gaming areas or to any other person or entity in one of the
600 following categories:

601 1. General occupational licenses for general employees,
602 including food service, maintenance, and other similar service
603 and support employees having access to the slot machine gaming
604 area.

605 2. Professional occupational licenses for any person,
606 proprietorship, partnership, corporation, or other entity that
607 is authorized by a slot machine licensee to manage, oversee, or
608 otherwise control daily operations as a slot machine manager, a
609 floor supervisor, security personnel, or any other similar
610 position of oversight of gaming operations.

611 3. Business occupational licenses for any slot machine
612 management company or company associated with slot machine
613 gaming, any person who manufactures, distributes, or sells slot
614 machines, slot machine paraphernalia, or other associated
615 equipment to slot machine licensees, any company that sells or
616 provides goods or services associated with slot machine gaming

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617 to slot machine licensees, or any person not an employee of the
618 slot machine licensee who provides maintenance, repair, or
619 upgrades or otherwise services a slot machine or other slot
620 machine equipment.

621 (b) Slot machine occupational licenses are not
622 transferable.

623 (3) A slot machine licensee may not employ or otherwise
624 allow a person to work at a licensed facility unless such person
625 holds the appropriate valid occupational license. A slot machine
626 licensee may not contract or otherwise do business with a
627 business required to hold a slot machine occupational license
628 unless the business holds such a license. A slot machine
629 licensee may not employ or otherwise allow a person to work in a
630 supervisory or management professional level at a licensed
631 facility unless such person holds a valid slot machine
632 occupational license. All slot machine occupational licensees,
633 while present in slot machine gaming areas, shall display on
634 their persons their occupational license identification cards.

635 (4) (a) A person seeking a slot machine occupational
636 license or renewal thereof shall make application on forms
637 prescribed by the division and include payment of the
638 appropriate application fee. Initial and renewal applications
639 for slot machine occupational licenses must contain all
640 information that the division, by rule, determines is required
641 to ensure eligibility.

642 (b) The division shall establish, by rule, a schedule for
643 the annual renewal of slot machine occupational licenses.

644 (c) Pursuant to rules adopted by the division, any person

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645 may apply for and, if qualified, be issued a slot machine
 646 occupational license valid for a period of 3 years upon payment
 647 of the full occupational license fee for each of the 3 years for
 648 which the license is issued. The slot machine occupational
 649 license is valid during its specified term at any licensed
 650 facility where slot machine gaming is authorized to be
 651 conducted.

652 (d) The slot machine occupational license fee for initial
 653 application and annual renewal shall be determined by rule of
 654 the division but may not exceed \$50 for a general or
 655 professional occupational license for an employee of the slot
 656 machine licensee or \$1,000 for a business occupational license
 657 for nonemployees of the licensee providing goods or services to
 658 the slot machine licensee. License fees for general occupational
 659 licensees shall be paid by the slot machine licensee. Failure to
 660 pay the required fee constitutes grounds for disciplinary action
 661 by the division against the slot machine licensee, but it is not
 662 a violation of this chapter or rules of the division by the
 663 general occupational licensee and does not prohibit the initial
 664 issuance or the renewal of the general occupational license.

665 (5) The division may:

666 (a) Deny an application for, or revoke, suspend, or place
 667 conditions or restrictions on, a license of a person or entity
 668 that has been refused a license by any other state gaming
 669 commission, governmental department, agency, or other authority
 670 exercising regulatory jurisdiction over the gaming of another
 671 state or jurisdiction; or

672 (b) Deny an application for, or suspend or place

673 conditions on, a license of any person or entity that is under
674 suspension or has unpaid fines in another state or jurisdiction.

675 (6)(a) The division may deny, suspend, revoke, or refuse
676 to renew any slot machine occupational license if the applicant
677 for such license or the licensee has violated the provisions of
678 this chapter or the rules of the division governing the conduct
679 of persons connected with slot machine gaming. In addition, the
680 division may deny, suspend, revoke, or refuse to renew any slot
681 machine occupational license if the applicant for such license
682 or the licensee has been convicted in this state, in any other
683 state, or under the laws of the United States of a capital
684 felony, a felony, or an offense in any other state that would be
685 a felony under the laws of this state involving arson;
686 trafficking in, conspiracy to traffic in, smuggling, importing,
687 conspiracy to smuggle or import, or delivery, sale, or
688 distribution of a controlled substance; racketeering; or a crime
689 involving a lack of good moral character, or has had a gaming
690 license revoked by this state or any other jurisdiction for any
691 gaming-related offense.

692 (b) The division may deny, revoke, or refuse to renew any
693 slot machine occupational license if the applicant for such
694 license or the licensee has been convicted of a felony or
695 misdemeanor in this state, in any other state, or under the laws
696 of the United States if such felony or misdemeanor is related to
697 gambling or bookmaking as described in s. 849.25.

698 (c) For purposes of this subsection, the term "convicted"
699 means having been found guilty, with or without adjudication of
700 guilt, as a result of a jury verdict, nonjury trial, or entry of

701 a plea of guilty or nolo contendere.

702 (7) Fingerprints for all slot machine occupational license
703 applications shall be taken in a manner approved by the division
704 and shall be submitted electronically to the Department of Law
705 Enforcement for state processing and the Federal Bureau of
706 Investigation for national processing for a criminal history
707 record check. All persons as specified in s. 550.1815(1)(a)
708 employed by or working within a licensed premises shall submit
709 fingerprints for a criminal history record check and may not
710 have been convicted of any disqualifying criminal offenses
711 specified in subsection (6). Division employees and law
712 enforcement officers assigned by their employing agencies to
713 work within the premises as part of their official duties are
714 excluded from the criminal history record check requirements
715 under this subsection. For purposes of this subsection, the term
716 "convicted" means having been found guilty, with or without
717 adjudication of guilt, as a result of a jury verdict, nonjury
718 trial, or entry of a plea of guilty or nolo contendere.

719 (a) Fingerprints shall be taken in a manner approved by
720 the division upon initial application, or as required thereafter
721 by rule of the division, and shall be submitted electronically
722 to the Department of Law Enforcement for state processing. The
723 Department of Law Enforcement shall forward the fingerprints to
724 the Federal Bureau of Investigation for national processing. The
725 results of the criminal history record check shall be returned
726 to the division for purposes of screening. Licensees shall
727 provide necessary equipment approved by the Department of Law
728 Enforcement to facilitate such electronic submission. The

729 division requirements under this subsection shall be instituted
730 in consultation with the Department of Law Enforcement.

731 (b) The cost of processing fingerprints and conducting a
732 criminal history record check for a general occupational license
733 shall be borne by the slot machine licensee. The cost of
734 processing fingerprints and conducting a criminal history record
735 check for a business or professional occupational license shall
736 be borne by the person being checked. The Department of Law
737 Enforcement may invoice the division for the fingerprints
738 submitted each month.

739 (c) All fingerprints submitted to the Department of Law
740 Enforcement and required by this section shall be retained by
741 the Department of Law Enforcement and entered into the statewide
742 automated fingerprint identification system as authorized by s.
743 943.05(2)(b) and shall be available for all purposes and uses
744 authorized for arrest fingerprint cards entered into the
745 statewide automated fingerprint identification system pursuant
746 to s. 943.051.

747 (d) The Department of Law Enforcement shall search all
748 arrest fingerprints received pursuant to s. 943.051 against the
749 fingerprints retained in the statewide automated fingerprint
750 identification system under paragraph (c). Any arrest record
751 that is identified with the retained fingerprints of a person
752 subject to the criminal history screening requirements of this
753 section shall be reported to the division. Each licensed
754 facility shall pay a fee to the division for the cost of
755 retention of the fingerprints and the ongoing searches under
756 this paragraph. The division shall forward the payment to the

757 Department of Law Enforcement. The amount of the fee to be
758 imposed for performing these searches and the procedures for the
759 retention of licensee fingerprints shall be as established by
760 rule of the Department of Law Enforcement. The division shall
761 inform the Department of Law Enforcement of any change in the
762 license status of licensees whose fingerprints are retained
763 under paragraph (c).

764 (e) The division shall request the Department of Law
765 Enforcement to forward the fingerprints to the Federal Bureau of
766 Investigation for a national criminal history records check
767 every 3 years following issuance of a license. If the
768 fingerprints of a person who is licensed have not been retained
769 by the Department of Law Enforcement, the person must file a
770 complete set of fingerprints as provided for in paragraph (a).
771 The division shall collect the fees for the cost of the national
772 criminal history record check under this paragraph and shall
773 forward the payment to the Department of Law Enforcement. The
774 cost of processing fingerprints and conducting a criminal
775 history record check under this paragraph for a general
776 occupational license shall be borne by the slot machine
777 licensee. The cost of processing fingerprints and conducting a
778 criminal history record check under this paragraph for a
779 business or professional occupational license shall be borne by
780 the person being checked. The Department of Law Enforcement may
781 invoice the division for the fingerprints submitted each month.
782 Under penalty of perjury, each person who is licensed or who is
783 fingerprinted as required by this section must agree to inform
784 the division within 48 hours if he or she is convicted of or has

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785 entered a plea of guilty or nolo contendere to any disqualifying
786 offense, regardless of adjudication.

787 (8) All moneys collected pursuant to this section shall be
788 deposited into the Pari-mutuel Wagering Trust Fund.

789 551.108 Prohibited relationships.--

790 (1) A person employed by or performing any function on
791 behalf of the division may not:

792 (a) Be an officer, director, owner, or employee of any
793 person or entity licensed by the division.

794 (b) Have or hold any interest, direct or indirect, in or
795 engage in any commerce or business relationship with any person
796 licensed by the division.

797 (2) A manufacturer or distributor of slot machines may not
798 enter into any contract with a slot machine licensee that
799 provides for any revenue sharing of any kind or nature that is
800 directly or indirectly calculated on the basis of a percentage
801 of slot machine revenues. Any maneuver, shift, or device whereby
802 this subsection is violated is a violation of this chapter and
803 renders any such agreement void.

804 (3) A manufacturer or distributor of slot machines or any
805 equipment necessary for the operation of slot machines or an
806 officer, director, or employee of any such manufacturer or
807 distributor may not have any ownership or financial interest in
808 a slot machine license or in any business owned by the slot
809 machine licensee.

810 (4) A licensee or any entity conducting business on or
811 within a licensed slot machine operation may not employ any
812 employee of a law enforcement agency or regulatory agency that

813 has jurisdiction over the licensed premises in an off-duty or
814 secondary employment capacity for work within any designated
815 slot machine gaming area or in any restricted area that supports
816 slot machine operations that requires a slot machine
817 occupational license to enter. If approved by the employee's
818 primary employing agency, off-duty or secondary employment that
819 is not prohibited by this section may be permitted.

820 (5) An employee of the division or relative living in the
821 same household as such employee of the division may not wager at
822 any time on a slot machine located at a facility licensed by the
823 division.

824 (6) An occupational licensee or relative living in the
825 same household as such occupational licensee may not wager at
826 any time on a slot machine located at a facility where that
827 person is employed.

828 551.109 Prohibited acts; penalties.--

829 (1) Except as otherwise provided by law and in addition to
830 any other penalty, any person who knowingly makes or causes to
831 be made, or aids, assists, or procures another to make, a false
832 statement in any report, disclosure, application, or any other
833 document required under this chapter or any rule adopted under
834 this chapter is subject to an administrative fine or civil
835 penalty of up to \$10,000.

836 (2) Except as otherwise provided by law and in addition to
837 any other penalty, any person who possesses a slot machine
838 without the license required by this chapter or who possesses a
839 slot machine at any location other than at the slot machine
840 licensee's facility is subject to an administrative fine or

841 civil penalty of up to \$10,000 per machine.

842 (3) Any person who knowingly excludes, or takes any action
843 in an attempt to exclude, anything of value from the deposit,
844 counting, collection, or computation of revenues from slot
845 machine activity, or any person who by trick, sleight-of-hand
846 performance, a fraud or fraudulent scheme, or device wins or
847 attempts to win, for himself or herself or for another, money or
848 property or a combination thereof or reduces or attempts to
849 reduce a losing wager in connection with slot machine gaming
850 commits a felony of the third degree, punishable as provided in
851 s. 775.082, s. 775.083, or s. 775.084.

852 (4) Any person who manipulates or attempts to manipulate
853 the outcome, payoff, or operation of a slot machine by physical
854 tampering or by use of any object, instrument, or device,
855 whether mechanical, electrical, magnetic, or involving other
856 means, commits a felony of the third degree, punishable as
857 provided in s. 775.082, s. 775.083, or s. 775.084.

858 (5) Theft of any slot machine proceeds or of property
859 belonging to the slot machine operator or licensed facility by
860 an employee of the operator or facility or by an employee of a
861 person, firm, or entity that has contracted to provide services
862 to the operator or facility constitutes a felony of the third
863 degree, punishable as provided in s. 775.082 or s. 775.083.

864 (6)(a) Any law enforcement officer or slot machine
865 operator who has probable cause to believe that a violation of
866 subsection (3), subsection (4), or subsection (5) has been
867 committed by a person and that the officer or operator can
868 recover the lost proceeds from such activity by taking the

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869 person into custody may, for the purpose of attempting to effect
870 such recovery or for prosecution, take the person into custody
871 on the premises and detain the person in a reasonable manner and
872 for a reasonable period of time. If the operator takes the
873 person into custody, a law enforcement officer shall be called
874 to the scene immediately. The taking into custody and detention
875 by a law enforcement officer or slot machine operator, if done
876 in compliance with this subsection, does not render such law
877 enforcement officer or slot machine operator criminally or
878 civilly liable for false arrest, false imprisonment, or unlawful
879 detention.

880 (b) Any law enforcement officer may arrest, either on or
881 off the premises and without warrant, any person if there is
882 probable cause to believe that person has violated subsection
883 (3), subsection (4), or subsection (5).

884 (c) Any person who resists the reasonable effort of a law
885 enforcement officer or slot machine operator to recover the lost
886 slot machine proceeds that the law enforcement officer or slot
887 machine operator had probable cause to believe had been stolen
888 from the licensed facility and who is subsequently found to be
889 guilty of violating subsection (3), subsection (4), or
890 subsection (5) commits a misdemeanor of the first degree,
891 punishable as provided in s. 775.082 or s. 775.083, unless such
892 person did not know or did not have reason to know that the
893 person seeking to recover the lost proceeds was a law
894 enforcement officer or slot machine operator.

895 (7) All penalties imposed and collected under this section
896 must be deposited into the Pari-mutuel Wagering Trust Fund of

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897 the Department of Business and Professional Regulation.

898 551.111 Legal devices.--Notwithstanding any provision of
 899 law to the contrary, a slot machine manufactured, sold,
 900 distributed, possessed, or operated according to the provisions
 901 of this chapter is not unlawful.

902 551.112 Exclusions of certain persons.--In addition to the
 903 power to exclude certain persons from any facility of a slot
 904 machine licensee in this state, the division may exclude any
 905 person from any facility of a slot machine licensee in this
 906 state for conduct that would constitute, if the person were a
 907 licensee, a violation of this chapter or the rules of the
 908 division. The division may exclude from any facility of a slot
 909 machine licensee any person who has been ejected from a facility
 910 of a slot machine licensee in this state or who has been
 911 excluded from any facility of a slot machine licensee or gaming
 912 facility in another state by the governmental department,
 913 agency, commission, or authority exercising regulatory
 914 jurisdiction over the gaming in such other state. This section
 915 does not abrogate the common law right of a slot machine
 916 licensee to exclude a patron absolutely in this state.

917 551.113 Persons prohibited from playing slot machines.--

918 (1) A slot machine licensee or agent or employee of a slot
 919 machine licensee may not allow a person who has not attained 21
 920 years of age:

921 (a) To play any slot machine.

922 (b) To be employed in any position allowing or requiring
 923 access to the designated slot machine gaming area of a facility
 924 of a slot machine licensee.

925 (2) A person licensed under this chapter, or any agent or
926 employee of a licensee under this chapter, may not knowingly
927 allow a person who has not attained 21 years of age to play or
928 operate a slot machine or have access to the designated slot
929 machine area of a facility of a slot machine licensee.

930 (3) The licensed facility shall post clear and conspicuous
931 signage within the designated slot machine gaming areas that
932 states the following:

933
934 THE PLAYING OF SLOT MACHINES BY PERSONS UNDER THE AGE OF 21
935 IS AGAINST FLORIDA LAW (SECTION 551.113, FLORIDA STATUTES).
936 PROOF OF AGE MAY BE REQUIRED AT ANY TIME.

937
938 551.114 Slot machine gaming areas.--

939 (1) A slot machine licensee may make available for play up
940 to 1,000 slot machines within the property of the facilities of
941 the slot machine licensee.

942 (2) The slot machine licensee shall display pari-mutuel
943 races or games within the designated slot machine gaming areas
944 and offer patrons within the designated slot machine gaming
945 areas the ability to engage in pari-mutuel wagering on live,
946 intertrack, and simulcast races conducted or offered to patrons
947 of the licensed facility.

948 (3) The division shall require the posting of signs
949 warning of the risks and dangers of gambling, showing the odds
950 of winning, and informing patrons of the toll-free telephone
951 number available to provide information and referral services
952 regarding compulsive or problem gambling.

953 (4) Designated slot machine gaming areas may be located
954 within the current live gaming facility or in an existing
955 building that must be contiguous and connected to the live
956 gaming facility. If a designated slot machine gaming area is to
957 be located in a building that is to be constructed, that new
958 building must be contiguous and connected to the live gaming
959 facility.

960 (5) The permitholder shall provide adequate office space
961 at no cost to the division and the Department of Law Enforcement
962 for the oversight of slot machine operations. The division shall
963 adopt rules establishing the criteria for adequate space,
964 configuration, and location and needed electronic and
965 technological requirements for office space required by this
966 subsection.

967 551.116 Days and hours of operation.--Slot machine gaming
968 areas may be open daily throughout the year. The slot machine
969 gaming areas may be open for a maximum of 16 hours per day.

970 551.117 Penalties.--The division may revoke or suspend any
971 slot machine license issued under this chapter upon the willful
972 violation by the slot machine licensee of any provision of this
973 chapter or of any rule adopted under this chapter. In lieu of
974 suspending or revoking a slot machine license, the division may
975 impose a civil penalty against the slot machine licensee for a
976 violation of this chapter or any rule adopted by the division.
977 Except as otherwise provided in this chapter, the penalty so
978 imposed may not exceed \$100,000 for each count or separate
979 offense. All penalties imposed and collected must be deposited
980 into the Pari-mutuel Wagering Trust Fund of the Department of

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981 Business and Professional Regulation.

982 551.118 Compulsive or addictive gambling prevention
983 program.--

984 (1) The slot machine licensee shall offer training to
985 employees on responsible gaming and shall work with a compulsive
986 or addictive gambling prevention program to recognize problem
987 gaming situations and to implement responsible gaming programs
988 and practices.

989 (2) The division shall, subject to competitive bidding,
990 contract for provision of services related to the prevention of
991 compulsive and addictive gambling. The contract shall provide
992 for an advertising program to encourage responsible gaming
993 practices and to publicize a gambling telephone help line. Such
994 advertisements must be made both publicly and inside the
995 designated slot machine gaming areas of the licensee's
996 facilities. The terms of any contract for the provision of such
997 services shall include accountability standards that must be met
998 by any private provider. The failure of any private provider to
999 meet any material terms of the contract, including the
1000 accountability standards, shall constitute a breach of contract
1001 or grounds for nonrenewal. The division may consult with the
1002 Department of the Lottery in the development of the program and
1003 the development and analysis of any procurement for contractual
1004 services for the compulsive or addictive gambling prevention
1005 program.

1006 (3) The compulsive or addictive gambling prevention
1007 program shall be funded from an annual nonrefundable regulatory
1008 fee of \$250,000 paid by the licensee to the division.

1009 551.119 Caterer's license.--A slot machine licensee is
1010 entitled to a caterer's license pursuant to s. 565.02 on days on
1011 which the pari-mutuel facility is open to the public for slot
1012 machine game play as authorized by this chapter.

1013 551.121 Prohibited activities and devices.--

1014 (1) Complimentary or reduced-cost alcoholic beverages may
1015 not be served to persons playing a slot machine. Alcoholic
1016 beverages served to persons playing a slot machine shall cost at
1017 least the same amount as alcoholic beverages served to the
1018 general public at a bar within the facility.

1019 (2) A slot machine licensee may not make any loan, provide
1020 credit, or advance cash in order to enable a person to play a
1021 slot machine. This subsection shall not prohibit automated
1022 ticket redemption machines that dispense cash resulting from the
1023 redemption of tickets from being located in the designated slot
1024 machine gaming area of the slot machine licensee.

1025 (3) A slot machine licensee may not allow any automated
1026 teller machine or similar device designed to provide credit or
1027 dispense cash to be located within the facilities of the slot
1028 machine licensee.

1029 (4) A slot machine licensee may not accept or cash any
1030 personal, third-party, corporate, business, or government-issued
1031 check from any person.

1032 (5) A slot machine, or the computer operating system
1033 linking the slot machine, may not be linked by any means to any
1034 other slot machine or computer operating system of another slot
1035 machine licensee. A progressive system may not be used in
1036 conjunction with slot machines within or between licensed

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1037 facilities.

1038 (6) A slot machine located within a licensed facility
1039 shall accept only tickets or paper currency or an electronic
1040 payment system for wagering and return or deliver payouts to the
1041 player in the form of tickets that may be exchanged for cash,
1042 merchandise, or other items of value. The use of coins, credit
1043 or debit cards, tokens, or similar objects is specifically
1044 prohibited. However, an electronic credit system may be used for
1045 receiving wagers and making payouts.

1046 551.122 Rulemaking.--The division may adopt rules pursuant
1047 to ss. 120.536(1) and 120.54 to administer the provisions of
1048 this chapter. The division may also adopt emergency rules
1049 pursuant to s. 120.54.

1050 Section 2. Section 849.15, Florida Statutes, is amended to
1051 read:

1052 849.15 Manufacture, sale, possession, etc., of coin-
1053 operated devices prohibited.--

1054 (1) It is unlawful:

1055 (a)-(1) To manufacture, own, store, keep, possess, sell,
1056 rent, lease, let on shares, lend or give away, transport, or
1057 expose for sale or lease, or to offer to sell, rent, lease, let
1058 on shares, lend or give away, or permit the operation of, or for
1059 any person to permit to be placed, maintained, or used or kept
1060 in any room, space, or building owned, leased or occupied by the
1061 person or under the person's management or control, any slot
1062 machine or device or any part thereof; or

1063 (b)-(2) To make or to permit to be made with any person any
1064 agreement with reference to any slot machine or device, pursuant

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1065 to which the user thereof, as a result of any element of chance
1066 or other outcome unpredictable to him or her, may become
1067 entitled to receive any money, credit, allowance, or thing of
1068 value or additional chance or right to use such machine or
1069 device, or to receive any check, slug, token or memorandum
1070 entitling the holder to receive any money, credit, allowance or
1071 thing of value.

1072 (2) Pursuant to section 2 of that chapter of the Congress
1073 of the United States entitled "An act to prohibit transportation
1074 of gaming devices in interstate and foreign commerce," approved
1075 January 2, 1951, being c. 1194, 64 Stat. 1134, and also
1076 designated as 15 U.S.C. ss. 1171-1177, the State of Florida,
1077 acting by and through the duly elected and qualified members of
1078 its Legislature, does hereby in this section, and in accordance
1079 with and in compliance with the provisions of section 2 of such
1080 chapter of Congress, declare and proclaim that any county of the
1081 State of Florida within which slot machine gaming is authorized
1082 pursuant to chapter 551 is exempt from the provisions of section
1083 2 of that chapter of the Congress of the United States entitled
1084 "An act to prohibit transportation of gaming devices in
1085 interstate and foreign commerce," designated as 15 U.S.C. ss.
1086 1171-1177, approved January 2, 1951. All shipments of gaming
1087 devices, including slot machines, into any county of this state
1088 within which slot machine gaming is authorized pursuant to
1089 chapter 551 and the registering, recording, and labeling of
1090 which have been duly performed by the manufacturer or
1091 distributor thereof in accordance with sections 3 and 4 of that
1092 chapter of the Congress of the United States entitled "An act to

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1093 | prohibit transportation of gaming devices in interstate and
 1094 | foreign commerce," approved January 2, 1951, being c. 1194, 64
 1095 | Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177,
 1096 | shall be deemed legal shipments thereof into any such county
 1097 | provided the destination of such shipments is an eligible
 1098 | facility as defined s. 551.102.

1099 | Section 3. Subsections (1) and (2) of section 895.02,
 1100 | Florida Statutes, are amended to read:

1101 | 895.02 Definitions.--As used in ss. 895.01-895.08, the
 1102 | term:

1103 | (1) "Racketeering activity" means to commit, to attempt to
 1104 | commit, to conspire to commit, or to solicit, coerce, or
 1105 | intimidate another person to commit:

1106 | (a) Any crime which is chargeable by indictment or
 1107 | information under the following provisions of the Florida
 1108 | Statutes:

1109 | 1. Section 210.18, relating to evasion of payment of
 1110 | cigarette taxes.

1111 | 2. Section 403.727(3)(b), relating to environmental
 1112 | control.

1113 | 3. Section 409.920 or s. 409.9201, relating to Medicaid
 1114 | fraud.

1115 | 4. Section 414.39, relating to public assistance fraud.

1116 | 5. Section 440.105 or s. 440.106, relating to workers'
 1117 | compensation.

1118 | 6. Section 443.071(4), relating to creation of a
 1119 | fictitious employer scheme to commit unemployment compensation
 1120 | fraud.

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1121 7. Section 465.0161, relating to distribution of medicinal
1122 drugs without a permit as an Internet pharmacy.

1123 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
1124 499.0691, relating to crimes involving contraband and
1125 adulterated drugs.

1126 9. Part IV of chapter 501, relating to telemarketing.

1127 10. Chapter 517, relating to sale of securities and
1128 investor protection.

1129 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
1130 to dogracing and horseracing.

1131 12. Chapter 550, relating to jai alai frontons.

1132 13. Section 551.109, relating to slot machine gaming.

1133 ~~14.13-~~ Chapter 552, relating to the manufacture,
1134 distribution, and use of explosives.

1135 ~~15.14-~~ Chapter 560, relating to money transmitters, if the
1136 violation is punishable as a felony.

1137 ~~16.15-~~ Chapter 562, relating to beverage law enforcement.

1138 ~~17.16-~~ Section 624.401, relating to transacting insurance
1139 without a certificate of authority, s. 624.437(4)(c)1., relating
1140 to operating an unauthorized multiple-employer welfare
1141 arrangement, or s. 626.902(1)(b), relating to representing or
1142 aiding an unauthorized insurer.

1143 ~~18.17-~~ Section 655.50, relating to reports of currency
1144 transactions, when such violation is punishable as a felony.

1145 ~~19.18-~~ Chapter 687, relating to interest and usurious
1146 practices.

1147 ~~20.19-~~ Section 721.08, s. 721.09, or s. 721.13, relating
1148 to real estate timeshare plans.

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1149 ~~21.20.~~ Chapter 782, relating to homicide.

1150 ~~22.21.~~ Chapter 784, relating to assault and battery.

1151 ~~23.22.~~ Chapter 787, relating to kidnapping.

1152 ~~24.23.~~ Chapter 790, relating to weapons and firearms.

1153 ~~25.24.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045,

1154 s. 796.05, or s. 796.07, relating to prostitution and sex

1155 trafficking.

1156 ~~26.25.~~ Chapter 806, relating to arson.

1157 ~~27.26.~~ Section 810.02(2)(c), relating to specified

1158 burglary of a dwelling or structure.

1159 ~~28.27.~~ Chapter 812, relating to theft, robbery, and

1160 related crimes.

1161 ~~29.28.~~ Chapter 815, relating to computer-related crimes.

1162 ~~30.29.~~ Chapter 817, relating to fraudulent practices,

1163 false pretenses, fraud generally, and credit card crimes.

1164 ~~31.30.~~ Chapter 825, relating to abuse, neglect, or

1165 exploitation of an elderly person or disabled adult.

1166 ~~32.31.~~ Section 827.071, relating to commercial sexual

1167 exploitation of children.

1168 ~~33.32.~~ Chapter 831, relating to forgery and

1169 counterfeiting.

1170 ~~34.33.~~ Chapter 832, relating to issuance of worthless

1171 checks and drafts.

1172 ~~35.34.~~ Section 836.05, relating to extortion.

1173 ~~36.35.~~ Chapter 837, relating to perjury.

1174 ~~37.36.~~ Chapter 838, relating to bribery and misuse of

1175 public office.

1176 ~~38.37.~~ Chapter 843, relating to obstruction of justice.

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1177 ~~39.38.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
 1178 or s. 847.07, relating to obscene literature and profanity.
 1179 ~~40.39.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
 1180 s. 849.25, relating to gambling.
 1181 ~~41.40.~~ Chapter 874, relating to criminal street gangs.
 1182 ~~42.41.~~ Chapter 893, relating to drug abuse prevention and
 1183 control.
 1184 ~~43.42.~~ Chapter 896, relating to offenses related to
 1185 financial transactions.
 1186 ~~44.43.~~ Sections 914.22 and 914.23, relating to tampering
 1187 with a witness, victim, or informant, and retaliation against a
 1188 witness, victim, or informant.
 1189 ~~45.44.~~ Sections 918.12 and 918.13, relating to tampering
 1190 with jurors and evidence.
 1191 (b) Any conduct defined as "racketeering activity" under
 1192 18 U.S.C. s. 1961(1).
 1193 (2) "Unlawful debt" means any money or other thing of
 1194 value constituting principal or interest of a debt that is
 1195 legally unenforceable in this state in whole or in part because
 1196 the debt was incurred or contracted:
 1197 (a) In violation of any one of the following provisions of
 1198 law:
 1199 1. Section 550.235, s. 550.3551, or s. 550.3605, relating
 1200 to dogracing and horseracing.
 1201 2. Chapter 550, relating to jai alai frontons.
 1202 3. Section 551.109, relating to slot machine gaming.
 1203 ~~4.3.~~ Chapter 687, relating to interest and usury.
 1204 ~~5.4.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or

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s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Section 4. The Legislature finds and declares that it has exclusive authority over the conduct of all wagering occurring at a slot machine facility in this state. As provided by law, only the Division of Pari-mutuel Wagering and other authorized state agencies shall administer chapter 551, Florida Statutes, and regulate the slot machine gaming industry, including operation of slot machine facilities, games, slot machines, and facilities-based computer systems authorized in chapter 551, Florida Statutes, and the rules adopted by the division.

Section 5. (1) For fiscal year 2005-2006, 46 full-time equivalent positions, with associated salary rate of 1,810,342, are authorized and the sums of \$682,582 in recurring funds and \$1,164,135 in nonrecurring funds from the Pari-mutuel Wagering Trust Fund and \$139,474 in recurring funds and \$809,863 in nonrecurring funds from the Administrative Trust Fund of the Department of Business and Professional Regulation are hereby appropriated for the purpose of carrying out all regulatory activities provided in this act. The Executive Office of the Governor shall place these funds and positions and the salary rate in reserve until such time as the Department of Business and Professional Regulation submits an expenditure plan for approval to the Executive Office of the Governor and the chair and vice chair of the Legislative Budget Commission in accordance with the provisions of s. 216.177, Florida Statutes.

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1233 (2) For fiscal year 2005-2006, the sums of \$976,096 in
1234 recurring funds and \$1,184,564 in nonrecurring funds are hereby
1235 appropriated from the Pari-mutuel Wagering Trust Fund of the
1236 Department of Business and Professional Regulation for transfer
1237 to the Department of Law Enforcement for the purpose of
1238 investigations, intelligence gathering, background
1239 investigations, and any other responsibilities as provided for
1240 in this act. Thirty-nine full-time equivalent positions, with an
1241 associated salary rate of 1,619,738, are authorized and the sums
1242 of \$976,096 in recurring funds and \$1,184,564 in nonrecurring
1243 funds are hereby appropriated from the Operating Trust Fund
1244 within the Department of Law Enforcement for the purpose of
1245 investigations, intelligence gathering, background
1246 investigations, and any other responsibilities as provided for
1247 in this act. The Executive Office of the Governor shall place
1248 these funds and positions and the salary rate in reserve until
1249 such time as the Department of Law Enforcement submits an
1250 expenditure plan for approval to the Executive Office of the
1251 Governor and the chair and vice chair of the Legislative Budget
1252 Commission in accordance with the provisions of s. 216.177,
1253 Florida Statutes.

1254 (3) The sum of \$1,000,000 is appropriated for fiscal year
1255 2005-2006 from the Pari-mutuel Wagering Trust Fund of the
1256 Department of Business and Professional Regulation from revenues
1257 received pursuant to s. 551.118, Florida Statutes, for contract
1258 services related to the prevention of compulsive and addictive
1259 gambling.

1260 Section 6. Paragraph (v) is added to subsection (1) of

HB 1B

2005

1261 | section 215.22, Florida Statutes, to read:
 1262 | 215.22 Certain income and certain trust funds exempt.--
 1263 | (1) The following income of a revenue nature or the
 1264 | following trust funds shall be exempt from the appropriation
 1265 | required by s. 215.20(1):
 1266 | (v) Taxes imposed on slot machine revenues pursuant to s.
 1267 | 551.106(2).
 1268 | Section 7. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - no Sunday operation

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Johnson offered the following:

Amendment

Remove line(s) 968 and insert:

area may be open every day of the week except Sundays. The slot
machine

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - Class II machines

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council
Representative(s) Johnson offered the following:

Amendment

Remove line(s) 96-115 and insert:

(7) "Slot machine" means a mechanical, electronic, computerized gaming device that is a technological aid to the playing of the game of bingo and that offers wagering on the game of bingo as defined in s. 849.0931, and is capable of being linked to a facilities-based computer system for regulating, managing, and auditing the operation, financial data, and program information, as required by the division. A slot machine may accept only tickets or an electronic payment system for wagering and return or deliver payouts to the player in the form of tickets that may be exchanged for cash, merchandise, or other items of value. The use of cash, coins, credit or debit cards, tokens, or similar objects is specifically prohibited. However, an electronic credit system may be used for receiving wagers and making payouts. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24) or an amusement game or machine as described in s. 849.161, and slot machines are not

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - Class II machines

22 subject to the tax imposed by s. 212.05(1)(h). It is the intent
23 of the Legislature to authorize only those mechanical,
24 computerized, electronic or other technological aids that a
25 federal agency or a court in a final, nonappealable order has
26 concluded expressly meet the definition of a mechanical,
27 computerized, electronic, or other technological aid to Class II
28 gaming pursuant to 25 U.S.C. 2703, the Indian Gaming Regulatory
29 Act. The Legislature does not intend to authorize any other
30 gaming device.

31 (8) "Mechanical, electronic, computerized, or other
32 technological aids" means any machine or device that assists a
33 player or the playing of a bingo game as defined in s. 849.0931
34 and broadens participation by allowing multiple players at one
35 slot machine facility to play with or against each other in a
36 bingo game for a common prize or prizes. Such aids may use
37 alternative displays, including, but not limited to, a
38 simulation of spinning reels, to illustrate aspects of the game
39 of bingo such as when a player joins the game or when prizes
40 have been awarded, as long as such aid continuously and
41 prominently displays the electronic bingo card so that it is
42 apparent that the player is actually engaged in the play of
43 bingo. Such aids shall not:

44 (a) Determine or change the outcome of any game of bingo;

45 (b) Be an electronic or electromechanical facsimile that
46 replicates a game of bingo; or

47 (c) Allow players to play with or against the machine or
48 house for a prize.

49 (9) "Electronic or electromechanical facsimile" means a
50 game played in an electronic or electromechanical format that
51 replicates a game of chance by incorporating all of the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - Class II machines

52 characteristics of the game, except when, for bingo, the
53 electronic or electromechanical format broadens participation by
54 allowing multiple players to play with or against each other
55 rather than with or against a machine.
56
57

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - conforming to Class II

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Fiscal Council
2 Representative(s) Johnson offered the following conforming
3 amendment:

4
5 **Amendment**

6 Remove line(s) 1038-1045
7
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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - child support

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Council/Committee hearing bill: Fiscal Council
Representative(s) Johnson offered the following:

Amendment (with title amendment)

Remove line(s) 408-428 and insert:

(10) (a) It is the responsibility of the appropriate state agency and of the judicial branch to identify to the division, in the form and format prescribed by the division, persons owing an outstanding debt to any state agency, including but not limited to child support collected through a court, including spousal support or alimony for the spouse or former spouse of the obligor if the child support obligation is being enforced by the Department of Revenue, overpayments of unemployment compensation benefits, overpayment for food stamps or other entitlements, taxes, liens, judgments, or other payments. Any slot machine prize of \$600 or more to any person having such an outstanding obligation shall be forwarded by the slot machine licensee to the division for distribution to the agency claiming the debt. The division is authorized to issue payment of the prize balance to the prize winner after deduction of the debt. If a prize winner owes multiple debts subject to offset under

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Johnson - child support

this subsection and the prize amount is insufficient to cover
all such debts, the amount of the prize shall be transmitted
first to the agency claiming that past due child support is
owed. If a balance of prize amount remains after payment of past
due child support, the balance shall be transmitted to other
agencies claiming debts owed to the state, pro rata, based upon
the ratio of the individual debt to the remaining debt owed to
the state.

(b) It is the responsibility of the slot machine licensee
to ensure that the facilities-based computer system that the
licensee uses for operational and accounting functions is
specifically configured to ensure the requirements of this
subsection are met.

(c) It is the responsibility of the division to identify
those persons specified under paragraph (a) as having such
outstanding obligations and make any transmittals or payments as
necessary.

(d) The division may adopt rules pursuant to ss.
120.536(1) and 120.54 to implement the provisions of this
subsection, including the technical requirements of the
facilities-based computer system.

===== T I T L E A M E N D M E N T =====

Remove line(s) 12 and insert:
gaming; requiring payment of child support and certain other
outstanding state owed debts from slot machine prizes; providing
licensing conditions on holders of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment by Attkisson - \$1,200 threshold for payment of state owed debt

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Attkisson offered the following:

**Attkisson Amendment to Johnson Amendment re: state owed
debts**

Remove line(s) 16 and insert:

slot machine prize of \$1,200 or more to any person having such
an

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

4

Amendment by Seiler - Tax rate

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council
Representative(s) Seiler offered the following:

Amendment

Remove line(s) 555-556 and insert:

(a) The tax rate on slot machine revenues at each facility shall be:

1. Thirty-five percent on revenue of \$125 million or less;

2. Forty percent on revenue greater than \$125 million, but less than or equal to \$250 million;

3. Forty-five percent on revenue greater than \$250 million, but less than or equal to \$500 million; and

4. Fifty-five percent on all revenue greater than \$500 million.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

4A

Amendment by Zapata - tax rate based on number of machines

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal

Representative(s) Zapata offered the following:

Zapata Amendment to Amendment 4 (Seiler Amendment relating to tax rates)

Remove line(s) 6-14 and insert:

(a) Upon submission of the initial application for a slot machine license and annually thereafter upon submission of an application for renewal, the applicant shall make an election to operate a specific number of slot machines that shall determine the applicable tax rate on slot machine revenue at the eligible facility. The applicant may amend the application and elect to operate fewer or more slot machines at anytime prior to the issuance of the initial license or renewal. Provided, once the license is issued, the election shall be irrevocable, and the tax rate shall remain in effect on all slot machine revenue until the expiration of the license and without regard to whether fewer slot machines are actually operated at the eligible facility. The tax rate on slot machine revenue at each facility shall be:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - tax rate based on number of machines

22 1. 40 percent for up to 1,250 slot machines;

23 2. 45 percent for up to 1,251 but not more than 1,500 slot
24 machines;

25 3. 50 percent for up to 1,501 but not more than 1,750 slot
26 machines; or

27 4. 55 percent for up to 1,751 but not more than 2,000 slot
28 machines.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - conforms to Zapata Substitute Amd.

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Zapata offered the following:

Conforming Amendment

Remove line(s) 940 and insert:
to 2,000 slot machines within the property of the facilities of

[Note: This amendment will be offered if Zapata amendment for a graduated tax rate based on the number of slot machines is adopted.]

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

5

Amendment by Seiler - 2,000 machines

Bill No. **HB 1B**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal

Representative(s) Seiler offered the following:

Amendment

Remove line(s) 940 and insert:
to 2,000 slot machines within the property of the facilities of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Seiler - licenses to operate

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Seiler offered the following:

Amendment (with title amendments)

Remove line(s) 248-255 and insert:

(1) The division has the authority to prepare and implement emergency rules necessary to permit the operation of slot machine gaming at eligible facilities at any time after the effective date of this act.

(2) Notwithstanding any provision of law to the contrary, existing eligible facilities shall be permitted to conduct slot machine gaming operations on the premises described in their pari-mutuel permits no later than 30 days after the effective date of this act, provided such eligible facility's permit to conduct pari-mutuel wagering is in good standing and the eligible facility's ownership interests have been previously approved as provided in chapter 550. The eligible facility shall be allowed to conduct slot machine gaming operations until such time as permanent rules and forms have been adopted and the eligible facility has been provided a reasonable opportunity to comply with same. Furthermore, such eligible facility shall not

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Seiler - licenses to operate

be allowed to conduct slot machine gaming operations until such time as it has made payment of the initial license fee.

(3) Notwithstanding any provision of law to the contrary, a manufacturer or distributor of slot machines that holds valid gaming license in the states of Nevada or New Jersey may act as a manufacture or distributor of slot machines as provided in this chapter, upon the effective date of this act until such time as permanent rules and forms have been adopted and such manufacturer or distributor has been provided a reasonable opportunity to comply with same.

(4) Notwithstanding any provision of law to the contrary, a pari-mutuel occupational licensee holding a currently valid pari-mutuel occupational license in Florida, is eligible to act as a slot machine general occupational licensee upon the effective date of this act until such time as permanent rules and forms have been adopted and such occupational licensee has been provided a reasonable opportunity to comply with same.

===== T I T L E A M E N D M E N T =====

Remove line(s) 12 and insert:

gaming; authorizing slot machine operations no later than 30 days after the effective date of the act; authorizing emergency rules; allows an eligible facility to conduct slot machine gaming no later than 30 days after effective date of act; provides the eligible facility with a reasonable opportunity to comply with permanent rules and forms; prohibits operation until payment of initial license fee; allows certain manufacturers and distributors of slot machines to conduct business on the effective date of this act; provides the manufacturer or distributor with a reasonable opportunity to comply with

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Seiler - licenses to operate

52 permanent rules and forms; allows certain pari-mutuel
53 occupational licensees to act as slot machine general
54 occupational licensee on the effective date of this act;
55 provides the general occupational licensee with a reasonable
56 opportunity to comply with permanent rules and forms; providing
57 licensing conditions on holders of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Seiler - funding for 17th Circuit State Attorney

Bill No. **HB 1B**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Seiler offered the following:

Amendment

Between line(s) 1259 and 1260 insert:

(4) For Fiscal year 2005-2006, the sums of \$170,884 in recurring and \$25,304 in nonrecurring funds are hereby appropriated from the Pari-mutuel Wagering Trust Fund in the Department of Business and Professional Regulation for transfer to the Office of the State Attorney, 17th Judicial Circuit, for the purpose of prosecution of offenses associated with gaming operations. Ten full-time equivalent positions, with associated salary rate of 501,273, are authorized and the sums of \$170,884 in recurring and \$25,304 in nonrecurring funds are hereby appropriated from the Grants and Donations Trust Fund in the Office of the State Attorney, 17th Judicial Circuit, for the purpose of prosecution of offenses associated with gaming operations. The Executive Office of the Governor shall place these funds, positions, and the salary rate in reserve until such time as the Office of the State Attorney, 17th Judicial Circuit, submits an expenditure plan for approval to the Executive Office of the Governor and the chair and vice chair of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Seiler - funding for 17th Circuit State Attorney

22 | the Legislative Budget Commission in accordance with the
23 | provisions of section 216.177, Florida Statutes.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - Compact Ratification

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ___

Council/Committee hearing bill: Fiscal Council
Representative(s) Zapata offered the following:

Amendment (with title amendments)

Between line(s) 1259 and 1260 insert:

Section 7. Any tribal-state compact relating to gaming activities which is entered into by an Indian tribe in this state and the Governor pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. s. 2701 et seq., must be conditioned upon ratification by the Legislature.

===== T I T L E A M E N D M E N T =====

Remove line(s) 40 and insert:
specified service charges; providing for ratification of tribal-state compacts by the Legislature; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - no check cashing businesses

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Zapata offered the following:

Amendment

Between line(s) 1031 and 1032 insert:

(5) A slot machine licensee may not allow any entity whose primary business is cashing checks, advancing cash, making loans, or providing credit to be located on or within a licensed slot machine operation.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - jai alai awards

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Zapata offered the following:

Amendment (with title amendment)

Between line(s) 521 and 522 insert:

(12) (a) No Slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering on live jai alai performances unless the applicant has on file with the division a binding collective bargaining agreement with the International Jai Alai Players Association that contains provisions dedicating percentages of slot machine revenues, retained after the payment of state tax pursuant to s. 551.106, to supplementing player base salaries, supplementing retirement and pension funds, and funding competitive purses for international tournaments or such other binding agreement containing such provisions.

(b) If an impasse in the collective bargaining process prevents the collective bargaining agreement required under paragraph (a) from being filed with the division for a slot machine license or renewal, the provisions dedicating percentages of slot machine revenues to supplementing player

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - jai alai awards

22 base salaries, supplementing retirement and pension funds, and
23 funding competitive purses for international tournaments shall
24 be subject to binding arbitration.

25 (c) 1. If a collective bargaining impasse is reached, the
26 applicant shall immediately ask the American Arbitration
27 Association to furnish a list of 11 arbitrators, each of whom
28 shall have at least 5 years of commercial arbitration experience
29 and no financial interest in or prior relationship with any of
30 the parties or their affiliated or related entities or
31 principles. Each required party to the agreement shall select a
32 single arbitrator from the list provided by the American
33 Arbitration Association within 10 days after receipt, and the
34 individuals so selected shall choose an additional arbitrator
35 from the list within the next 10 days. The three arbitrators
36 selected shall constitute the panel that shall arbitrate the
37 dispute between the parties pursuant to the American Arbitration
38 Association Commercial Arbitration Rules and chapter 682.

39 2. At the conclusion of the proceedings, which shall be
40 within 60 days of the selection of the arbitration panel, the
41 panel shall present to the parties a proposed agreement that a
42 majority of the panel believes equitably balances the rights,
43 interests, obligations, and reasonable expectations of the
44 parties concerning the provisions described in paragraph (b).
45 The parties shall immediately enter into such agreement, which
46 shall be filed with the division and which shall satisfy the
47 requirements of paragraph (a) and permit issuance of the pending
48 initial slot machine license or renewal, notwithstanding that a
49 collective bargaining agreement may remain at impasse. The
50 agreement produced by the arbitration panel under this paragraph
51 shall be effective until the last day of the license or renewal

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - jai alai awards

period or until the parties enter into a different agreement,
concerning such issues, including a collective bargaining
agreement. Each party shall pay its respective costs of
arbitration and shall pay one-half of the costs of the
arbitration panel, unless the parties otherwise agree.

(d) The division shall suspend a slot machine license if
the agreement entered into by the parties as a result of
arbitration under paragraph (c) 2. is terminated or otherwise
ceases to operate or if the division determines that the
licensee is materially failing to comply with the provisions of
such agreement. Any such suspension shall take place in
accordance with chapter 120.

(e) If any provision of this subsection or its
application to any person or circumstance is held invalid, the
invalidity does not affect other provisions or applications of
this subsection or chapter which can be given effect without the
invalid provision or application, and to this end the provisions
of this subsection are severable.

===== T I T L E A M E N D M E N T =====

Remove line(s) 13 and insert:
thoroughbred pari-mutuel wagering permits; providing licensing
conditions on holders of jai alai permits; providing for

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - \$25 M transfer fee on sale of facility

Bill No. PCB BR 05B-01

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Business Regulation

Representative(s) Zapata offered the following:

Amendment (with directory and title amendments)

Between line(s) 588 and 589 insert:

551.1065 Fee on transfer of ownership in eligible facility.-- Any pari-mutuel permitholder who sells or transfers in a single transaction or series of transactions a fifty percent or greater ownership interest in an eligible facility or makes any transaction by whatever means which results in a change in controlling ownership shall pay a fee of \$25 million for the first such sale, transfer, or change. Thereafter, any permitholder who sells or transfers in a single transaction or series of transactions a fifty percent or greater ownership interest in an eligible facility or makes any transaction by whatever means which results in a change in controlling ownership in such eligible facility shall pay a fee of \$5 million for such sale, transfer, or change. All fees collected pursuant to this section shall be deposited into the Pari-mutuel Wagering Trust Fund to be used by the division for enhancing compulsive and addictive gambling programs under s. 551.118.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - \$25 M transfer fee on sale of facility

22 These payments shall be accounted for separately from taxes or
23 fees paid pursuant to the provisions of chapter 550.

24

25 ===== D I R E C T O R Y A M E N D M E N T =====

26 Remove line(s) 45 and insert:

27 sections 551.101, 551.102, 551.103, 551.104, 551.105, 551.106,
28 551.1065,

29

30 ===== T I T L E A M E N D M E N T =====

31 Remove line(s) 15 and insert:

32 fee and tax rate; imposing a fee for sale or transfer of an
33 ownership interest in an eligible facility; providing for
34 payment procedures;

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - tax rate based on number of machines

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Zapata offered the following:

Amendment

Remove line(s) 555-556 and insert:

(a) Upon submission of the initial application for a slot machine license and annually thereafter upon submission of an application for renewal, the applicant shall make an election to operate a specific number of slot machines that shall determine the applicable tax rate on slot machine revenue at the eligible facility. The applicant may amend the application and elect to operate fewer or more slot machines at anytime prior to the issuance of the initial license or renewal. Provided, once the license is issued, the election shall be irrevocable, and the tax rate shall remain in effect on all slot machine revenue until the expiration of the license and without regard to whether fewer slot machines are actually operated at the eligible facility. The tax rate on slot machine revenue at each facility shall be:

1. 40 percent for up to 1,250 slot machines;

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - tax rate based on number of machines

22 2. 45 percent for up to 1,251 but not more than 1,500 slot
23 machines;

24 3. 50 percent for up to 1,501 but not more than 1,750 slot
25 machines; or

26 4. 55 percent for up to 1,751 but not more than 2,000 slot
27 machines.

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12a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - conforms to Zapata Substitute Amd.

Bill No. **HB 1B**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal

Representative(s) Zapata offered the following:

Conforming Amendment

Remove line(s) 940 and insert:
to 2,000 slot machines within the property of the facilities of

[Note: This amendment will be offered if Zapata amendment for a graduated tax rate based on the number of slot machines is adopted.]

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - defines contiguous and connected

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

Council/Committee hearing bill: Fiscal Council

Representative(s) Zapata offered the following:

Amendment

Remove line(s) 959 and insert:

facility. A new building is not contiguous and connected to the
live gaming facility if the only connection between the two
consists of sidewalks, roads, tunnels, bridges, railways or
similar structures or passages of a length greater than 100
yards.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - \$1M surcharge

Bill No. 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council
Representative(s) Zapata offered the following:

Amendment (with title amendments)

Between line(s) 553 and 554 insert:

(c) In any fiscal year, the Department of Business and Professional Regulation may make a determination as to whether the level of the slot machine license fees are adequate to support the slot machine regulatory program. If the department determines that the slot machine license fees are inadequate and that a deficit in the trust fund will result, the department shall advise the Governor in accordance with s. 216.221(10). The Governor's plan of action for resolving a budget deficit in excess of one million dollars may include seeking approval from the Legislative Budget Commission for the department to assess a slot machine license fee surcharge of up to one million dollars on each slot machine licensee for the current fiscal year.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment by Zapata - \$1M surcharge

22 ===== T I T L E A M E N D M E N T =====

23 Remove line(s) 15 and insert:

24 fee and tax rate; authorizing a slot machine license fee

25 surcharge; providing for a license

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Page 2 of 2

Zapata Amd -- \$1M surcharge to cover deficits

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 1B

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Fiscal Council
Representative(s) Barreiro offered the following:

Amendment (with directory and title amendments)

Remove line(s) 1233 through 1253 and insert:

(2) For fiscal year 2005-2006, the sums of \$1,024,998 in
recurring funds and \$1,184,564 in nonrecurring funds are hereby
appropriated from the Pari-mutuel Wagering Trust Fund of the
Department of Business and Professional Regulation for transfer
to the Department of Law Enforcement for the purpose of
investigations, intelligence gathering, background
investigations, and any other responsibilities as provided for
in this act. Thirty-nine full-time equivalent positions, with an
associated salary rate of 1,682,034, are authorized and the sums
of \$1,024,998 in recurring funds and \$1,184,564 in nonrecurring
funds are hereby appropriated from the Operating Trust Fund
within the Department of Law Enforcement for the purpose of
investigations, intelligence gathering, background
investigations, and any other responsibilities as provided for
in this act. The Executive Office of the Governor shall place
these funds and positions and the salary rate in reserve until

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 | such time as the Department of Law Enforcement submits an
23 | expenditure plan for approval to the Executive Office of the
24 | Governor and the chair and vice chair of the Legislative Budget
25 | Commission in accordance with the provisions of s. 216.177,
26 | Florida Statutes.

27 |
28 |
29 |
30 |
31 | ===== D I R E C T O R Y A M E N D M E N T =====

32 | Remove line(s) and insert:
33 |
34 |

35 | ===== T I T L E A M E N D M E N T =====

36 | Remove line(s) and insert:
37 |

By Rep. Barreiro

HB1B

Between lines 1012 + 1013 inserts:

551.120 Conduct of referendum election for slot machines.--

(1) Slot machines shall not be authorized and no slot machine operations shall be conducted at a licensed pari-mutuel facility located in Miami-Dade county or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 any operation of slot machines until such time as such slot machines operations are approved by the majority of electors participating in a referendum election in the county in which the applicant proposes to conduct slot machine activities. Any licensed pari-mutuel facility located in Miami-Dade county or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may apply to the division for a license to conduct slot machine operations under this chapter. Applications for a license to conduct slot machine operations shall be subject to the provisions of this chapter.

(2) Each referendum held under the provisions of this section shall be held in accordance with the provisions of chapters 97-106, except as otherwise provided in this chapter. A referendum may be held for more than one licensee applicant for slot machine operation in a given county if the written applications for each such licensee applicant under s. 551. are filed simultaneously or are otherwise filed within the times specified by said provision to allow the conduct of a single referendum. The expense of such referendum shall be borne by the licensee applicant(s) requesting the referendum. For purposes of this section, the expense of conducting a referendum is the incremental expense in excess of routine operating expenses that are incurred by the governing body, the supervisor of elections, and other essential governmental entities in conducting the election. If the referendum is being held at the request of more than one licensee applicant, each applicant shall be responsible for an equal share of the expense.

551.121 Elections for ratification of slot machines.--

(1) Any authorized applicant for a license to conduct slot machine operations pursuant to this chapter may have the question of whether that slot machine license application will be ratified or rejected submitted to the electors of the county designated in s. 23, Art. X of the State Constitution. Such question shall be submitted to the electors for approval or rejection at a special, primary, or general election. The licensee applicant shall present a written application to the governing body of the county that requests a referendum election in that county pursuant to s. 551.120 and this section, accompanied by a certified copy of the application filed with the division. Within 30 days after receipt of the written application, the governing body shall order a special referendum election. The election shall be scheduled for no sooner than 21 days nor more than 90 days from the date on which it is ordered. Provided, the referendum election will be held in conjunction with the primary election if the application is received within not more than 90 nor less than 60 days of such election or in conjunction with the general election if the application is received not more than 90 nor less than 60 days prior to that election. The governing body shall give notice of the referendum

election by publishing notice once each week for 2 consecutive weeks in one or more newspapers of general circulation in the county.

(2) (a) Once an slot machine license application has submitted to the Division, the application shall remain active and the licensee shall have a period of 2 years in which to request a referendum election pursuant to this section or such slot machine license application shall become void and shall whether to authorize slot machine operations at a licensed pari-mutuel facility located in Miami-Dade county or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 reject such question, the slot machine license(s) shall become effective immediately upon the Division's approval of such application(s) or subsequent supplemental, amended or substitute application(s), and the license applicant may conduct slot machine operations upon complying with the other provision of this chapter. If the majority of electors voting on the question of whether to authorize slot machine operations at a licensed pari-mutuel facility located in Miami-Dade county or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 reject such question, such license shall become effective upon the Division's approval of the slot machine license application, and the slot machine licensee shall pay to the division within 10 days of its receipt of written notice from the division of the division's approval of its license application, any license fees or security bonds required by this chapter.

(b) If the majority of electors voting on the question of ratification or rejection of whether to authorize slot machine operations at a licensed pari-mutuel facility located in Miami-Dade county or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 reject such question, any slot machine license applications from a qualified licensed pari-mutuel licensee seeking to operate slot machines in such county shall become void. The governing board of the county shall immediately certify the results of the election to the division.